

UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA - WESTERN DIVISION
HONORABLE PERCY ANDERSON, U.S. DISTRICT JUDGE

UNITED STATES OF AMERICA,)
)
)
Plaintiff,)
)
)
vs.) CASE NO. CR 15-255-PA
)
)
PAUL TANAKA,)
)
)
Defendant.)
)

REPORTER'S TRANSCRIPT OF
PARTIAL JURY TRIAL PROCEEDINGS (UNSEALED) - DAY 2
THURSDAY, MARCH 24, 2016

LOS ANGELES, CALIFORNIA

SHAYNA MONTGOMERY, CSR, RPR, CRR
FORMER FEDERAL OFFICIAL COURT REPORTER
312 NORTH SPRING STREET, ROOM 410
LOS ANGELES, CALIFORNIA 90012
SHAYNAMONTGOMERY@YAHOO.COM

1 APPEARANCES OF COUNSEL:

2

3 FOR THE PLAINTIFF:

4

EILEEN DECKER
United States Attorney
BY: BRANDON D. FOX
LIZABETH A. RHODES
EDDIE A. JAUREGUI
Assistant United States Attorneys
United States Courthouse
312 North Spring Street
Los Angeles, California 90012

5

6

7 FOR THE DEFENDANT PAUL TANAKA:

8

9

10

11

H. DEAN STEWARD, ATTORNEY-PROFESSIONAL CORPORATION
BY: H. DEAN STEWARD
Attorney at Law

12

13 107 Avenida Miramar, Suite C
San Clemente, California 92672
(949) 481-4900

14

15

16

FOR THE DEFENDANT PAUL TANAKA:
17
18 LAW OFFICE OF JEROME J. HAIG
BY: JEROME HAIG
Attorney at Law
21143 Hawthorne Boulevard, Suite 454
Torrance, California 90503
(424) 488-0686

19

20

21

22

23

24

25

ALSO PRESENT:

Leah Tanner, FBI Special Agent

INDEX

	<u>OPENING STATEMENTS</u>	<u>PAGE</u>
3	Plaintiff's Opening Statement	178
4	Defendant's Opening Statement	203

INDEX OF WITNESSES

	<u>WITNESSES</u>	<u>PAGE</u>
10	(None.)	

INDEX OF EXHIBITS

	<u>NUMBER</u>	<u>DESCRIPTION</u>	FOR	<u>IDENTIFICATION</u>	<u>RECEIVED</u>
17		(None.)			

1 **LOS ANGELES, CALIFORNIA; THURSDAY, MARCH 24, 2016**

2 **8:34 A.M.**

3 **--oo--**

4 THE DEPUTY CLERK: Calling item number one,
5 CR 15-255, U.S.A. vs. Paul Tanaka.

6 Counsel, state your appearances, please.

7 MR. FOX: Good morning, Your Honor. Brandon Fox,
8 Elizabeth Rhodes, Eddie Jauregui on behalf of the United States.
9 Also sitting at counsel table is FBI Special Agent Leah Tanner.

10 THE COURT: Good morning.

11 MS. RHODES: Good morning.

12 MR. STEWARD: And, Your Honor, Harry Dean Steward on
13 behalf of Mr. Tanaka, and also Jerome Haig.

14 THE COURT: Good morning.

15 MR. HAIG: Good morning.

16 THE COURT: All right. I believe we're ready to
17 proceed. We'll have another panel come down this morning. We
18 should be able to fit all of them in this courtroom. We'll
19 give them a brief orientation as to the nature of the case and
20 its expected length and determine how many of them can be with
21 us for the next three weeks, and we'll get that number. And
22 then we'll see if we need any additional jurors by going
23 through the -- having them fill out the questionnaire and
24 evaluating the hardship questionnaires.

25 Assuming we can get enough, then we'll have -- yesterday's

1 panel I think is going to be here about 9:45, and then we'd
2 resume with jury selection and just integrate the new people
3 into the prospective jurors.

4 All right. Anything else anybody wishes to bring up at
5 this point?

6 MR. FOX: Your Honor, I just wonder if -- you're
7 going to -- I just want to understand the procedure that you're
8 going to have here. You're going to bring in the 50 or 60 or
9 70, you're going to ask how many people can stay. People will
10 raise their hands if they can stay for the three, four weeks,
11 and you're going to excuse the rest of them? Or what was your
12 procedure?

13 THE COURT: Well, assuming -- if we got 10, 15
14 people, I think that's probably enough at that point to get a
15 jury, and then I would -- then I would excuse the remainder of
16 those people. If we don't get enough people, we'll take the
17 ones we get, we'll have them go upstairs. We'll then circulate
18 additional -- the hardship questionnaire, and we'll evaluate
19 the hardship questionnaire and start talking to people.

20 MR. FOX: If I may suggest, Your Honor -- I think
21 that procedure sounds great -- when you send up the people who
22 say that they have a hardship, if maybe we could have them fill
23 out the questionnaire while they're upstairs. Just in case we
24 do need them and we want to look at their questionnaires, at
25 that point they would be filled out and we can evaluate them.

1 THE COURT: That's fine.

2 MR. FOX: Thank you.

3 MR. HAIG: Your Honor, we did have one other issue,
4 and it relates to the Mickey Manzo matter that we were talking
5 about yesterday.

6 THE COURT: Uh-huh.

7 MR. HAIG: Just to perfect the record, just in case
8 something needs to be looked at again, the government yesterday
9 talked about the status of Mr. Manzo being different than the
10 status of Mr. Baca because Mr. Manzo has been convicted and
11 also sentenced. And Mr. Baca's only pled, he's awaiting
12 sentencing. The sentencing's coming up, I believe in May.

13 Our view is that the government certainly had the control
14 of the calendar in this situation, and they certainly knew of
15 the allegations set forth in the information that Mr. Baca pled
16 to, specifically pleading to lying to FBI agents back in April
17 of 2013. They may not have known at that specific time, I'm
18 talking about the government, that he had lied, although I
19 suspect that they probably did.

20 Certainly they would have known those facts by the time
21 the Thompson indictment was unsealed later that year because
22 many of the allegations in Thompson indictment and many of the
23 things that came out in the Thompson trial were completely at
24 odds with what Mr. Baca told to the agents and told to the U.S.
25 attorney on that date in April of 2013.

1 So our view, Your Honor, is that the government certainly
2 could have done a couple things to make Mr. Baca available.
3 They could have conditioned a plea upon him agreeing to testify
4 for the defense or the prosecution, and in this --

5 THE COURT: One second.

6 MR. HAIG: Those are not jurors, Your Honor.

7 THE COURT: Okay. Go ahead.

8 MR. HAIG: They could have conditioned a plea upon
9 him testifying for the defense or the prosecution. They could
10 have granted him immunity.

11 So we believe that the motion that was made by the Court
12 last fall -- or made to the Court last fall that was denied by
13 this Court, I believe in September, asking for the Court to
14 order the government to grant immunity to Mr. Baca so he could
15 deliver relevant testimony in this case, I think that that
16 should be revisited based upon the new facts that we now have,
17 specifically that Mr. Baca has now pled guilty, that the
18 government has the power to grant him immunity, that they also
19 had the power to charge him at an earlier time so that by the
20 time this trial actually occurred, Mr. Baca would have been
21 sentenced already and his Fifth Amendment right, arguably,
22 would not be there. And if it still was there because his
23 sentence wasn't final for some reason, then he would be in the
24 exact same position that Mr. Manzo is in.

25 MR. FOX: Your Honor, I'm a little confused by what

1 Mr. Haig is suggesting. I think he's suggesting that the
2 government did not charge Mr. Baca at the same time as the
3 other seven defendants in the Thompson and Sexton trials
4 because we were trying to game play and wait until the time
5 that we charged Mr. Tanaka in order to have Mr. Baca plead and
6 not have his sentence occur until after Mr. Tanaka's trial --
7 that's pretty convoluted, and I think that's what he's getting
8 at. Of course, there's nothing in the record to suggest that.

9 Mr. Haig is trying to shift the burden as well on this.
10 As we briefed this before, Your Honor, it is their obligation
11 to point out to the Court testimony that Mr. Baca might give
12 and would give that is directly at odds with somebody that the
13 government sought to compel and Your Honor grant us to compel
14 the testimony of, and the defense still after several months
15 has not stated one thing that Mr. Baca would say that is
16 directly at odds with anything that Mr. Manzo will say.

17 So I think that this motion -- or this issue is just not,
18 first of all, right because Mr. Manzo has not testified, but
19 also it's a very convoluted argument that Mr. Haig is making.

20 THE COURT: All right. Let's -- well, I'll -- the
21 Court will have something to say about that at a later time,
22 but at least at this point, I'd like to get the jury down here.
23 So let's...

24 All right. I think it's going to be another ten minutes
25 or so for the panel to be brought down, so I'll come back out

1 in about ten minutes and see if we can get some additional
2 jurors to serve.

3 All right. Anything else?

4 MR. FOX: No, Your Honor.

5 MR. HAIG: No.

6 THE COURT: All right. Thank you.

7 (Off the record at 8:42 a.m.)

8 (On the record at 9:41 a.m.)

9 THE DEPUTY CLERK: Calling item number one,
10 CR 15-255, U.S.A. vs. Paul Tanaka.

11 Counsel, state your appearances, please.

12 MR. FOX: Good morning, Your Honor. Brandon Fox,
13 Elizabeth Rhodes and Eddie Jauregui on behalf of the United
14 States. Also sitting at counsel table is Special Agent Leah
15 Tanner with the FBI.

16 THE COURT: Good morning.

17 MR. STEWARD: And, Your Honor, Dean Steward
18 representing Paul Tanaka.

19 MR. HAIG: And Jerome Haig representing Paul Tanaka.

20 THE COURT: Good morning.

21 MR. STEWARD: Good morning.

22 MR. HAIG: Good morning.

23 THE COURT: Members of the panel, good morning.

24 THE PROSPECTIVE JURY PANEL: Good morning.

25 THE COURT: I'm Judge Percy Anderson. I would like

1 to welcome you to this courtroom. We're here this morning for
2 the important task of selecting a jury to try a criminal case.
3 We rely on juries in this country to decide cases of trials in
4 our courts. Thus, jury service is an important duty of
5 citizenship. Jurors must be -- jurors must conduct themselves
6 with honesty, integrity and fairness.

7 Under our system of justice, the role of the jury is to
8 find the facts of the case based on the evidence presented in
9 the trial; that is, from the evidence seen and heard in court,
10 the jury decides what the facts are and then applies to those
11 facts the law I will give in my instructions to the jury. My
12 role as the trial judge is to make whatever legal decisions
13 must be made during the trial and to explain to the jury the
14 legal principles that will guide its decisions.

15 This is a criminal case entitled United States of America
16 vs. Paul Tanaka. To begin this process, I would like to give
17 you a brief summary of what this case is about. The charges in
18 this case involve conduct that allegedly occurred from August
19 18th, 2011 to September 26, 2011. The defendant, Paul Tanaka,
20 was the undersheriff, or second in command, of the Los Angeles
21 County Sheriff's Department during this period.

22 The government alleges that the defendant knew that the
23 federal government was conducting a federal grand jury
24 investigation of whether certain deputies were using excessive
25 force and accepting bribes at the Sheriff's Department's jails.

1 The government contends that the defendant and other members of
2 the Sheriff's Department conspired to obstruct the
3 investigation. The government also alleges that the defendant
4 and others took actions to obstruct the investigation,
5 including hiding an inmate Anthony Brown who was acting as a
6 federal informant from the Federal Bureau of Investigation and
7 a federal grand jury, tampered with potential witnesses by
8 attempting to convince them not to cooperate with the federal
9 investigation and threatened to arrest an FBI agent.

10 Defendant Paul Tanaka is charged with two crimes,
11 conspiring to obstruct justice and obstruction of justice. The
12 defendant denies that he was part of the conspiracy and denies
13 that he obstructed justice. The defendant has pleaded not
14 guilty to each of the charges and is presumed innocent.

15 The charges against the defendant are contained in an
16 indictment. The indictment is simply the description of the
17 charges made by the government against the defendant. It is
18 not evidence of anything. To these charges, the defendant has
19 pled not guilty, and it will be the question of his guilt or
20 innocence to the charges that you will be asked to decide if
21 you're selected as a juror in this case.

22 Now, do not communicate with anyone in any way and do not
23 let anyone else communicate with you in any way about the
24 merits of the case or anything to do with it. This includes
25 discussing the case in person, in writing, by phone or

1 electronic means via e-mail, text messaging, tweeting, using an
2 Internet chat room, blog, website or other feature. This
3 applies to communicating with your fellow jurors until I give
4 you the case for your deliberations, and it applies to
5 communicating with anyone else, including your family members,
6 your employer, the media or press and the people involved in
7 the trial, although you may notify your family or your employer
8 that you've been -- or that you're a member of a panel of
9 prospective jurors. But if you're asked or approached in any
10 way about your jury service or anything about this case, you
11 must respond that you've been ordered not to discuss the matter
12 and to report that contact to the court.

13 Because you will receive all the evidence and legal
14 instructions you properly may consider to return a verdict, do
15 not read any newspapers, watch or listen to any news or media
16 accounts or commentary about the case or anything to do with
17 it. Do not do any research such as consulting dictionaries,
18 searching the Internet or using other reference materials, and
19 do not make any investigation or in any other way to learn
20 about the case on your own.

21 The law requires these restrictions to ensure the parties
22 have a fair trial based on the same evidence that each party
23 has had an opportunity to address. A juror who violates these
24 restrictions jeopardizes the fairness of these proceedings, and
25 a mistrial could result that would require the entire trial

1 process to start over. If any juror is exposed to any outside
2 information, please notify the court.

3 And most importantly --

4 THE PROSPECTIVE JUROR: Excuse me, sir. I'm William
5 Lindsay Smith, and I believe my wife was on the grand jury --

6 THE COURT: Sir. Sir.

7 THE PROSPECTIVE JUROR: -- relating to this.

8 THE COURT: Sir, have a seat.

9 THE PROSPECTIVE JUROR: Thank you.

10 THE COURT: And most importantly, ladies and
11 gentlemen, keep an open mind. Do not make up your mind about
12 what your verdict should be until after you've gone into the
13 jury room to decide the case and you and your fellow jurors
14 have discussed the evidence.

15 Ladies and gentlemen, I recognize that jury service is
16 probably an inconvenience to you, taking you away from your
17 jobs and families and disrupting your daily routine. It is,
18 however, one of the most important duties that citizens of this
19 country are called upon to perform. Our Constitution framers
20 recognized that trial by jury is the essence of a free
21 government. Jury service is a right that our forefathers
22 fought for and men and women are fighting for today because of
23 its importance in the governing of a democratic society.

24 Now, I know there's a temptation to let the other guy do
25 his civic duty, and I've probably heard every excuse you can

1 think of trying to get out of jury duty. But recently, the
2 importance of jury duty was brought home to me. I had a
3 gentleman seated as a potential juror, and he was relatively
4 small in stature, self-employed and married. And as is my
5 custom, I began asking questions about himself and his family,
6 and he told me that he immigrated to this country and that he
7 had three children. And I then asked him how old his children
8 were, and he told me that his youngest was 18 and that his
9 middle child was 20 and his oldest son was 22, but he had
10 recently lost his life in a fire fight in Afghanistan.

11 And that really brought home to me the ultimate sacrifices
12 and contributions that men and women today are making to ensure
13 our way of life, including the right of our citizens to have a
14 trial by jury. For the jury to perform this historic and
15 beneficial role in our democracy, it must be constituted with
16 people like yourselves who are willing to serve to give back
17 and thus to make a small contribution to this great country of
18 ours.

19 Now, we expect the presentation of all phases of this case
20 including the opening statements, the evidence, the arguments
21 and instruction will last approximately three weeks plus
22 deliberations. Our daily schedule will be normally from 8:00
23 to 1:30 with two short breaks. Today we're going to meet until
24 noon, and we'll take a lunch break and come back at 1:30, and
25 we'll continue until about 5:00. So we would expect all

1 aspects of this case would conclude probably by the week of
2 April 12th with the case then being submitted to the jury for
3 its deliberations. During deliberations, your hours will
4 change. It will start at 8:00 and end at 3:30, and lunch will
5 be brought in to you.

6 Now, I want to advise you that a juror may be excused from
7 jury service only upon a showing of specific facts which
8 constitute an undue hardship for the juror and not for the
9 juror's employer. An undue hardship includes the following:
10 The prospective juror has a personal obligation to care for the
11 sick, the aged or infirmed dependence or to care for children
12 where no comparable substitute care is either available or
13 practical without exposing -- or without imposing an undue
14 financial hardship on the prospective juror or the person cared
15 for; the prospective juror has a physical or mental disability
16 or impairment, not affecting the person's ability to serve on a
17 jury, but that would expose the juror to an undue risk of
18 mental or physical harm; participation in the trial would
19 expose the prospective juror to an extreme financial burden
20 taking into account the following factors: The length of the
21 trial, whether the prospective juror is the sole support for
22 his or her family and the availability of employer
23 reimbursement.

24 Please keep in mind that jury service is not only a duty
25 and a responsibility, but it's also a right because of its

1 importance in the governing of a democratic society. As a
2 society, we've given to the people the power to decide disputes
3 between their fellow citizens in civil cases and the power to
4 make the ultimate determination of whether or not to deprive a
5 fellow citizen of life, liberty or property in criminal cases.
6 Jury service is a duty that should not be shirked and a right
7 that should not be lightly relinquished.

8 May I see counsel at sidebar for just a moment.

9 (Discussion held at sidebar.)

10 THE COURT: Okay. Is there anything that anybody
11 wants me to say as a result of these statements made by this
12 prospective juror?

13 MR. STEWARD: I think it's better not to.

14 MR. HAIG: I agree.

15 MR. FOX: And, Your Honor, just so you're aware, it
16 is likely that his wife did sit at the grand jury, I believe is
17 the one who returned this indictment, in his last statement.

18 MR. STEWARD: One other thing we would ask -- this
19 is Jerome Haig -- that the Court make some inquiry as to if
20 they've seen any articles today.

21 THE COURT: We'll do that later.

22 MR. HAIG: Very well. Okay. Thank you.

23 MR. FOX: Thank you, Your Honor.

24 (End of sidebar discussions.)

25 THE COURT: All right. I would like the potential

1 jurors who believe that they could be with us for the next
2 three weeks to please raise your hand.

3 Okay. What we're going to do is we're going to start with
4 the people in the box. I'm going to have the clerk come down
5 and make a note of your name, and then for those people, you
6 may be -- return to the jury assembly room on the third floor
7 to await further instructions.

8 So for the people in the box, could you please raise your
9 hand if you could be with us for the next three weeks.

10 (Pause in proceedings.)

11 THE COURT: Okay. And for the people on my left, if
12 you could raise your hands if you could be with us for the next
13 three weeks.

14 (Pause in proceedings.)

15 THE COURT: All right. Now, for those in the
16 center, if you could raise your hands and let us know if you
17 can be with us for the next three weeks.

18 (Pause in proceedings.)

19 THE COURT: Okay. Now, for the people -- the
20 prospective jurors seated on the right, if you could raise your
21 hands if you can be with us for the next three weeks.

22 (Pause in proceedings.)

23 THE COURT: All right. May I see counsel at
24 sidebar.

25 (Discussion held at sidebar.)

1 THE COURT: We have approximately 29, so I would
2 think that should be sufficient. Out of an abundance of
3 caution though, I think what I'm going to do is have these
4 people fill out a hardship questionnaire. I'm going to have
5 them fill it out up on the third floor, and they'll be
6 collected up there. And then if we need them -- and we'll just
7 keep those people up there until about noon or so until we
8 figure out how things are going. I'd also suggest that we ask
9 Mr. Smith to take his leave --

10 MR. FOX: Yes, Your Honor.

11 THE COURT: -- from jury service.

12 MR. FOX: I was going to suggest that, yes.

13 MR. STEWARD: Quietly.

14 THE COURT: Okay.

15 MR. FOX: Thank you.

16 THE COURT: All right.

17 (End of sidebar discussions.)

18 THE COURT: All right. Ladies and gentlemen, what
19 we're going to do is we're going to pass out a questionnaire
20 for those of you who believe you cannot be with us for the next
21 three weeks. I want you to take the questionnaires, return to
22 the jury assembly room on the third floor and fill out that
23 questionnaire and give it to one of the officials in the jury
24 assembly room. Once you've completed that questionnaire, then
25 we will contact you probably within the next hour or so to let

1 you know whether or not you're going to be needed or whether or
2 not we have some additional questions based on the
3 questionnaire that you filled out. All right?

4 So -- all right. So these gentlemen are going to
5 distribute these questionnaires. Steve will start with the
6 people in the jury box. If any of the papers were left on the
7 chairs, if you could just leave those on the chairs. And
8 again, take the questionnaires up to the third floor, fill them
9 out, and then we'll take a look at them and we'll be back in
10 touch with you -- probably be at least an hour, 20 minutes. If
11 you need something to write with, I think we've got some pens
12 here.

13 (Pause in proceedings.)

14 THE COURT: What I'd like to do now is to take the
15 29 people that agreed that they could serve, bring them back
16 down here along with the five people -- five to seven people
17 from yesterday, bring them in and give them our second phase of
18 orientation. And then once we've done that, then we'll combine
19 those groups with the people that were here yesterday, and
20 we'll resume with jury selection.

21 I take it we have no prospective jurors in the courtroom
22 now?

23 MR. FOX: Your Honor, if you'd like, I know who our
24 first peremptory strike is, so I'll share that with the defense
25 right now so that we can speed us this process once -- I don't

1 think anything's going to change in the next half hour.

2 THE COURT: You never know. That's fine.

3 (Counsel conferred off the record.)

4 (Pause in proceedings.)

5 THE COURT: All right. If you're a prospective
6 juror, please sit in the center section or on the seats to my
7 left.

8 Ladies and gentlemen, we'll be ready to start in just a
9 few minutes. We're waiting for a couple more prospective
10 jurors.

11 (Pause in proceedings.)

12 THE COURT: I take it, all of you, this is your
13 first morning here.

14 We've got about five to seven more people that we're
15 waiting for. It should just be a couple of minutes, and then
16 we can get started.

17 (Pause in proceedings.)

18 THE COURT: Do we have anybody in the courtroom that
19 was here yesterday? We have six more people. They're going to
20 join us shortly. It'll be just a couple minutes.

21 (Pause in proceedings.)

22 THE COURT: Ladies and gentlemen, as you probably
23 know, at the beginning of any court case the first step
24 involves a selection of jurors who are going to hear the case.
25 During this process, I'm going to be asking you questions. It

1 provides the Court and the lawyers with an opportunity to
2 inquire into your background, experience and state of mind to
3 determine whether you're qualified to be a juror in this case.

4 Now, qualified simply means that you can be fair and
5 impartial, that you can decide this case based on the evidence
6 presented here in the courtroom and on nothing else. Please
7 keep in mind that during this process there is no such thing as
8 a right or wrong answer, only answers that are complete or
9 incomplete. Err on the side of giving too much information.

10 In this case, you'll be sitting as judges of the facts.
11 All parties have a right to expect that you will perform your
12 role fairly and impartially and not because of any bias or
13 prejudice you bring into this courtroom. If there is any
14 reason why any of you might be biased or prejudiced in any way,
15 you must disclose such reasons when you're asked to do so.
16 It's your duty to make this disclosure.

17 In giving you these admonitions, I want to make it clear
18 that I have no intention of trying to embarrass anyone or to
19 invade your privacy or the privacy of any of your family
20 members or close personal friends. If you have something that
21 you think the lawyers or I should know but you do not wish to
22 discuss it in the presence of the entire panel in open court,
23 please let me know and we can discuss that matter at sidebar
24 outside the presence of the other jurors.

25 As I mentioned earlier, this is a criminal case entitled

1 the United States of America vs. Paul Tanaka. To begin this
2 process, I'd like to introduce you to the parties and counsel
3 in this matter. I'm going to ask the government counsel to
4 stand and introduce himself and anyone seated at counsel table
5 to the prospective jurors.

6 MR. FOX: Good morning.

7 THE PROSPECTIVE JURORS: Good morning.

8 MR. FOX: My name's Brandon Fox. I'm an Assistant
9 United States Attorney, also known as a federal prosecutor.
10 Sitting two people away from me, now standing, is Lizabeth
11 Rhodes. She is also an Assistant United States Attorney, and
12 sitting behind her will be Eddie Jauregui who is also an
13 Assistant United States Attorney. Sitting directly to my right
14 will be Leah Tanner. She'll also be known to you as Leah Marx,
15 her previous name. She's an FBI special agent.

16 THE COURT: Thank you.

17 Is there any member of the jury panel who is acquainted
18 with or has seen counsel or the agent or who may have heard
19 their names prior to today? Just raise your hand.

20 MR. JAUREGUI: Your Honor, I think there's one
21 potential juror who didn't hear the question. He'd like the
22 Court to --

23 THE PROSPECTIVE JUROR: I didn't understand.

24 THE COURT: Okay. What I really want to know is
25 whether or not you've heard any of -- the names of any of these

1 people or you're acquainted with them in any way. And if you
2 are, please raise your hand.

3 All right. Will counsel stipulate that I do not have to
4 note for the record that there were no hands raised in response
5 to my future questions?

6 MR. FOX: Yes, Your Honor.

7 MR. STEWARD: Yes, Your Honor.

8 THE COURT: I'm going to ask defense counsel to
9 stand and introduce himself, the defendant, as well as anyone
10 else seated at counsel table to the prospective jurors.

11 MR. STEWARD: Good morning. My name is Dean
12 Steward. I'm a lawyer from Orange County, and I represent Paul
13 Tanaka.

14 MR. HAIG: Good morning. I'm Jerome Haig. I'm also
15 a lawyer from Los Angeles. I represent Mr. Tanaka as well.

16 THE COURT: Thank you.

17 Is there any member of the jury panel who is acquainted
18 with or has seen counsel or the defendant or who may have heard
19 their names prior to today?

20 Okay. We'll just keep that -- just keep that in mind, and
21 we'll get to that.

22 Do any of you or any members of your families know or have
23 any kind of relations with me?

24 Okay. Could you join us over here for just a moment.

25 (Discussion held at sidebar.)

1 THE PROSPECTIVE JUROR: I used to work at
2 Sonnenschein Nath & Rosenthal, Daisy Brito.

3 THE COURT: Oh, hi, how are you?

4 THE PROSPECTIVE JUROR: Hi, I remember when you were
5 appointed to District, yes.

6 THE COURT: Okay.

7 THE PROSPECTIVE JUROR: Good to see you.

8 THE COURT: It's good seeing you.

9 Ms. Brito used to work for the same law firm that I did.

10 THE PROSPECTIVE JUROR: Many years.

11 THE COURT: Many years.

12 THE PROSPECTIVE JUROR: For many years.

13 THE COURT: All right. But I don't think we've ever
14 had any --

15 THE PROSPECTIVE JUROR: No.

16 THE COURT: -- social relationship, and I don't know
17 her personally.

18 Okay. If you could just resume your seat.

19 THE PROSPECTIVE JUROR: Okay.

20 (End of sidebar discussions.)

21 THE COURT: All right. During the trial of this
22 case, the following persons may be called as witnesses: I'm
23 going to ask the clerk to read the names of the witnesses who
24 may be called in this case.

25 THE DEPUTY CLERK: Robert Olmsted; John Clark; Al

1 Gonzales; Denise Conte; Peter Eliasberg; Pat Maxwell; Steve
2 Roller; Steve Martinez; Robert Bayes; Mickey Manzo; Connie
3 Cervantes; David Dahle; Bobby Lyons; Judy Gerhardt; Linda
4 Farrar; Michelle Miller; Gus Academia; Tara Adams; Kathy Voyer;
5 Ralph Ornelas; Michael Bornman; Gilbert Michel; William David
6 Courson; John Powell; David Betkey; William "Tom" Carey; John
7 Torribio; Leah Tanner; Ruben Martinez; Sue Bissman; Mark
8 Lilianfeld; Larry Waldie; Cecil Rhambo; Duane Harris; Paul
9 Yoshinaga; Ed Medrano; Rodney Lyons; Helen Hayase; Carlos
10 Lifesjoe; Victor Cockrell; Carlos Narro; David Lam; Leroy Baca.

11 THE COURT: Have any of you heard of or otherwise
12 been acquainted with any of the witnesses just named that you
13 believe would affect your ability to be a fair and impartial
14 juror in this case or make it difficult for you to be fair and
15 impartial?

16 Okay. All right. I'm going to -- why don't we start with
17 the lady here, yeah, that's fine. Why don't you come over here
18 and join us.

19 (Discussion held at sidebar.)

20 THE COURT: Okay. If you could just stand here next
21 to the microphone.

22 THE PROSPECTIVE JUROR: Sure.

23 THE COURT: Okay.

24 THE PROSPECTIVE JUROR: Okay. I'm actually a member
25 of the media, and I'm very familiar with this case. And I'm

1 familiar with, obviously, the former sheriff Lee Baca. About a
2 month or two ago, I worked very closely in my job with -- I
3 work for NBC news channel which is part of the NBC news
4 network, and in that job I work very closely with Channel 4,
5 KNBC. And about a month or two ago, they covered a press
6 conference with officials when the former sheriff was having a
7 hearing because he was pleading guilty to charges related to
8 this. They covered a press conference with officials. They
9 alerted me to it. I distributed their feed to the network news
10 shows for NBC if they were interested.

11 My affiliates and I work locally around my region and
12 around the country for whoever wanted to -- you know, for
13 whoever had interest outside of the local market. I also --
14 I've worked with sketch artists for this court before,
15 purchasing their sketches for various trials. They didn't
16 contact me directly about the Lee Baca hearing, but KNBC had
17 alerted me. I alerted the network and the division I work for
18 just letting them know the schedules are available and --

19 THE COURT: By the way, my mother is very upset
20 about these sketches.

21 THE PROSPECTIVE JUROR: And I don't think that the
22 network purchased them, but I don't know because they didn't
23 have me directly call the sketch artist. And I'm also on the
24 distribution list for the U.S. Attorney's Office for the
25 Central District here, so I've received press releases about

1 it. I'm on Sheriff's elite press releases. I'm sorry, am I
2 talking too much? I just want to make sure I -- I'm just
3 trying --

4 THE COURT: That's fine.

5 THE PROSPECTIVE JUROR: -- to be honest about
6 everything and everything I know. So as I said, I'm very
7 familiar. I knew this trial was coming up. I knew jury
8 selection was going on. I don't know. I can't think of
9 anything else right now to say, but I'm --

10 THE COURT: Okay. I have a few things. Now,
11 despite everything you know about what you've read, what you've
12 heard, do you think you can put that aside and judge this case
13 based solely on what you hear here in the courtroom?

14 THE PROSPECTIVE JUROR: I think I could.

15 THE COURT: Okay. Any doubt in your mind?

16 THE PROSPECTIVE JUROR: No. The only doubt or
17 concern of mine would be, again, because I do work in the
18 media, I don't know if there's going to be days where we're not
19 meeting and I have to go to work, I am concerned I am going to
20 be hearing about this case a lot, whether it's through my
21 e-mails or whatever. I just -- I don't know if I can avoid
22 that if I'm doing my job, if you will.

23 THE COURT: Well, if you were selected as a juror,
24 as I mentioned earlier, all jurors are restricted in what they
25 can write or say about the case, and that includes

1 communicating with other people about the case and about their
2 jury service, including e-mails. So you'd probably have to
3 suspend talking about the case or commenting about the case.

4 THE PROSPECTIVE JUROR: My concern would be that if
5 I was on my conference call or something like that with Channel
6 4 and they start talking, you know what I'm saying?

7 THE COURT: You'd have to hang up and say, I can't
8 be a party to this.

9 THE PROSPECTIVE JUROR: And is that going to make it
10 look obvious?

11 THE COURT: Huh?

12 THE PROSPECTIVE JUROR: Is that going to make
13 something look obvious?

14 THE COURT: Is it going to make something look
15 obvious?

16 THE PROSPECTIVE JUROR: Like, well, maybe she's on
17 that jury and -- maybe she's on that jury. That's another
18 thing I had a concern about.

19 THE COURT: Oh, you can tell people that you've been
20 selected to be a juror on a case, but you're instructed you
21 can't talk about it.

22 THE PROSPECTIVE JUROR: Okay. Okay. I think I -- I
23 think that was another concern of mine, just that they know
24 I'm -- you know, I mean, my employers, my coworkers know I'm
25 here for jury duty, and that concerns me that -- it's a

1 concern.

2 THE COURT: Okay. That's fine. I guess the real
3 question is do you feel that you'd be able to serve as a juror
4 in this case and follow the Court's instructions and not talk
5 with anybody about the case or about anyone who has anything to
6 do with it and put aside what you've heard and what you've
7 learned about the various individuals in this case and decide
8 this case based just on the evidence you hear here in the
9 courtroom?

10 THE PROSPECTIVE JUROR: Yes.

11 (Reporter admonition.)

12 THE COURT: Okay. Why don't --

13 THE PROSPECTIVE JUROR: Can I ask now something else
14 that I should have said before and that I didn't because I
15 misread something and because I have you here? I wanted to --
16 where it said availability from employer, my employer only pays
17 ten days, and that's my fault for not reading that and
18 listening to that properly. I just wanted to put that there
19 too.

20 THE COURT: That's fine.

21 THE PROSPECTIVE JUROR: Okay.

22 THE COURT: Now, are you married?

23 THE PROSPECTIVE JUROR: I'm not.

24 THE COURT: Okay. How many people reside in your
25 household?

1 THE PROSPECTIVE JUROR: Me.

2 THE COURT: Okay. Would it be a financial hardship
3 for you to serve if the case went, say, 15 days?

4 THE PROSPECTIVE JUROR: No, because I believe I
5 could call my human resources department and just let them know
6 that I'm on a case that's going to go longer, and I would hope
7 that they would work something out with me.

8 THE COURT: Okay.

9 THE PROSPECTIVE JUROR: Okay.

10 THE COURT: And one of the things that we do if
11 requested, we can call HR and tell them, ask them that a
12 person's been asked to serve on a jury and it's going to be a
13 little longer than your standard --

14 THE PROSPECTIVE JUROR: Okay.

15 THE COURT: -- if that becomes necessary.

16 THE PROSPECTIVE JUROR: Okay. And if this is a case
17 that's going to get media coverage, maybe some media presence
18 in the courtroom or a sketch artist, is it a problem that I may
19 have worked or may have worked with that media person in the
20 room or that I've communicated and purchased sketches?

21 THE COURT: I don't think so, as long as you don't
22 communicate to them about your jury service while you're on the
23 panel.

24 THE PROSPECTIVE JUROR: Okay.

25 THE COURT: Okay.

1 THE PROSPECTIVE JUROR: Yes.

2 THE COURT: So no blogs, no tweets.

3 THE PROSPECTIVE JUROR: Nope. Okay.

4 THE COURT: All right.

5 THE PROSPECTIVE JUROR: All right. Thank you, Your

6 Honor.

7 THE COURT: Thank you.

8 MR. STEWARD: I still don't know her name.

9 THE COURT: I'll get it.

10 You have her name?

11 THE DEPUTY CLERK: No.

12 THE COURT: Oh, you don't either. Okay.

13 (End of sidebar discussions.)

14 THE COURT: Ms.? I'm sorry.

15 THE PROSPECTIVE JUROR: Me?

16 THE COURT: Yes.

17 (Discussion held at sidebar.)

18 THE COURT: In the course of your employment, are

19 you familiar with any of these people?

20 THE PROSPECTIVE JUROR: The names.

21 THE COURT: Just the names?

22 THE PROSPECTIVE JUROR: The names.

23 THE COURT: You haven't talked to them?

24 THE PROSPECTIVE JUROR: I've never talked to them.

25 THE COURT: Okay. That's fine.

1 THE PROSPECTIVE JUROR: But it's names and what I've
2 read --

3 THE COURT: Okay.

4 THE PROSPECTIVE JUROR: -- because of my job.

5 THE COURT: All right. And what's your name?

6 THE PROSPECTIVE JUROR: My name's Candace Kisiel.

7 THE COURT: Candace?

8 THE PROSPECTIVE JUROR: Kisiel.

9 THE COURT: Okay. And how do you spell your last
10 name?

11 THE PROSPECTIVE JUROR: K-I-S-I-E-L.

12 THE COURT: Okay. Thank you.

13 THE PROSPECTIVE JUROR: Okay.

14 (End of sidebar discussions.)

15 THE COURT: All right. Anybody -- I think another
16 person had their hand raised.

17 All right, sir.

18 (Discussion held at sidebar.)

19 THE COURT: Hi, how are you?

20 THE PROSPECTIVE JUROR: Fine.

21 THE COURT: You'd raised your hand that you might
22 find it difficult to be a juror on this case. Why is that?

23 THE PROSPECTIVE JUROR: I know ex-sheriff Baca very
24 well, been to numerous events that he's been at I'm involved
25 with. When he got into his little jam, I really lost total

1 confidence in him. I'm still kind of leery also because I
2 actually voted for Paul when he was running for Sheriff, just
3 to see what was going to happen with that.

4 I've been involved in law enforcement now for 35 years.
5 I'm now retired, so I have been at events with all of them.
6 I've heard things that they've said. I think they both lost a
7 little bit of their integrity, so I might question the validity
8 of things that they would say.

9 THE COURT: Okay. You think you'd have a difficult
10 time putting the things that you've heard them say and the
11 experiences that you've had with them, might have some
12 difficulty putting that out -- putting that out of your mind
13 and deciding this case based solely on the evidence you hear
14 here in the courtroom?

15 THE PROSPECTIVE JUROR: It's kind of based on what
16 they say. You know, I mean --

17 THE COURT: Well --

18 THE PROSPECTIVE JUROR: It's hard to say. I mean, I
19 would hope that I would be fair and impartial just like you
20 would want someone to be.

21 THE COURT: Well, what's important here is that the
22 jurors in deciding the case, that they decide the case based
23 solely --

24 THE PROSPECTIVE JUROR: On the evidence.

25 THE COURT: -- on the evidence --

1 THE PROSPECTIVE JUROR: Sure.

2 THE COURT: -- that they hear here in the courtroom.

3 And, you know, everybody has a different life experience that
4 they bring to the task.

5 THE PROSPECTIVE JUROR: Sure.

6 THE COURT: But in deciding the guilt or innocence
7 of the defendant, it's important that people make their
8 decision based just on the evidence that's seen and heard here
9 in the courtroom. And if you can do that, that's fine. If
10 you're going to have any difficulty doing that, we need to
11 know.

12 THE PROSPECTIVE JUROR: Well, I hope I would
13 vacillate. I hope that I would be able to put forth that best
14 effort to do that.

15 THE COURT: Uh-huh. Well --

16 THE PROSPECTIVE JUROR: That's the best I can say.
17 I don't want to say, Oh, yeah, sure, no question. I mean --

18 THE COURT: Well, that's okay.

19 THE PROSPECTIVE JUROR: -- no one knows if it's a
20 yes or no.

21 THE COURT: If you can't commit to doing that,
22 that's fine. But we need jury -- we need members of the jury
23 who are committed and commit to deciding this case based just
24 on the evidence and leave the outside influences outside the
25 courtroom.

1 THE PROSPECTIVE JUROR: I will attempt to do so, to
2 the best of my ability.

3 THE COURT: We need more than an attempt. We need
4 people who can commit. If you can commit, that's fine. If you
5 don't -- in good conscience, if you don't think you can, we
6 just need to know that.

7 THE PROSPECTIVE JUROR: I think I may question some
8 of the things that certain folks will say. Just from my past
9 experiences, even though you want to listen to the evidence,
10 there's things that I know about the Sheriff's Department that
11 could influence my decision.

12 THE COURT: Okay. What law enforcement agency were
13 you with?

14 THE PROSPECTIVE JUROR: I was with the Los Angeles
15 Airport Police for 32 years, and prior to that I was ten and a
16 half years with the Los Angeles Police Department as a
17 detention officer where we would do the exchange-bys with the
18 Sheriff's Department.

19 THE COURT: Okay. Could you have a seat on that
20 bench for just a second.

21 Go ahead.

22 MR. STEWARD: I was just going to say I can't think
23 of many follow-up questions other than his name, and beyond
24 that, we'd suggest he's challenged for cause.

25 MR. FOX: We would stipulate. We'll stipulate to

1 him. I think he's Michael Edwards because I saw 359 on his
2 badge, if that matches up.

3 MR. HAIG: Matches up with his occupation?

4 MR. FOX: We should ask him what his occupation is
5 still.

6 THE COURT: Sir.

7 Okay, and your name?

8 THE PROSPECTIVE JUROR: Michael Edwards.

9 THE COURT: Okay. We'll let you know, so just
10 resume your seat in the audience.

11 THE PROSPECTIVE JUROR: Where I was before or the
12 front?

13 THE COURT: Right where you were before.

14 (End of sidebar discussions.)

15 THE COURT: All right. I believe there was one more
16 person who had their hand up, if you'd join us up here, please.

17 (Discussion held at sidebar.)

18 THE COURT: Morning. If you could stand here close
19 to the microphone.

20 THE PROSPECTIVE JUROR: Okay.

21 THE COURT: Okay. Is there a reason you feel that
22 you couldn't be fair and impartial in this case?

23 THE PROSPECTIVE JUROR: Well, not fair, just that I
24 work for the county jail.

25 THE COURT: Okay.

1 THE PROSPECTIVE JUROR: That's my only thing.

2 THE COURT: Okay. And which jail do you work at?

3 THE PROSPECTIVE JUROR: Right here in county jail,
4 Twin Towers.

5 THE COURT: Okay. How long have you worked there?

6 THE PROSPECTIVE JUROR: Five years, five and a half.

7 THE COURT: Okay. And what do you do there?

8 THE PROSPECTIVE JUROR: I'm an inmate crew leader.

9 THE COURT: An inmate?

10 THE PROSPECTIVE JUROR: Inmate crew leader. I
11 supervise inmates when they come out to work --

12 THE COURT: Okay.

13 THE PROSPECTIVE JUROR: -- for cleaning.

14 THE COURT: Okay. Do you think that -- well, let me
15 ask you, would you have any difficulty putting aside what you
16 may have seen in the jails or heard and decide this case based
17 solely on the evidence you hear here in the courtroom?

18 THE PROSPECTIVE JUROR: No.

19 THE COURT: Okay. Can you decide this case based
20 solely on the evidence?

21 THE PROSPECTIVE JUROR: Yes.

22 THE COURT: And can you put aside what you may have
23 heard or seen in the jails and decide this case based just on
24 what you hear here?

25 THE PROSPECTIVE JUROR: Yes.

1 THE COURT: Okay. Did any of the names that were
2 read off to you, did they ring a bell? Do you know any of
3 those people?

4 THE PROSPECTIVE JUROR: No, just the last name Leroy
5 Baca, just that.

6 THE COURT: Okay. So you'd heard of Mr. Baca?

7 THE PROSPECTIVE JUROR: Not -- yeah, uh-huh.

8 THE COURT: Okay. Anybody else?

9 THE PROSPECTIVE JUROR: No.

10 THE COURT: Okay. You ever heard the name of the
11 defendant?

12 THE PROSPECTIVE JUROR: Yes.

13 THE COURT: Mr. Tanaka?

14 THE PROSPECTIVE JUROR: Just heard it.

15 THE COURT: Okay. But you haven't had any contact
16 with him?

17 THE PROSPECTIVE JUROR: No. No.

18 THE COURT: Okay. And you can put aside anything
19 you may have heard about Mr. Baca or Mr. Tanaka and decide this
20 case based solely on the evidence?

21 THE PROSPECTIVE JUROR: Yes.

22 THE COURT: Okay. All right. If you could just
23 have a seat.

24 THE PROSPECTIVE JUROR: Okay.

25 MR. FOX: We believe that she's 422, Maria

1 Santosvilleda. It says that she's an inmate crew leader as an
2 occupation.

3 THE COURT: Okay. Anything else?

4 MR. STEWARD: No, not from us.

5 THE COURT: Thank you.

6 (End of sidebar discussions.)

7 THE COURT: Okay. Other than the people that were
8 called up, is there anybody else who's acquainted with any of
9 the witnesses who were named?

10 You should note that the parties are not required to call
11 all of these witnesses, and they may find it necessary later to
12 call other witnesses. As I had mentioned earlier, this is a
13 case in which the defendant is charged with conspiring to
14 obstruct justice and endeavoring to obstruct justice or a grand
15 jury investigation of civil rights violations in the
16 Los Angeles County jails.

17 The government alleges that the defendant was the
18 undersheriff with the Los Angeles County Sheriff's Department
19 at a time when the federal government was conducting a grand
20 jury investigation of whether certain deputies were using
21 excessive force and accepting bribes at the Los Angeles County
22 Sheriff's Department jails. The government alleges that it was
23 utilizing an inmate, Anthony Brown, as an informant in that
24 investigation.

25 The charges allege that after the defendant and other

1 members of the Los Angeles County Sheriff's Department became
2 aware that inmate Brown was a federal informant, they conspired
3 to hide inmate Brown from a federal grand jury by changing
4 inmate Brown's name, by altering the Sheriff's Department
5 computer records, moving inmate Brown to other facilities
6 operated by the Los Angeles County Sheriff's Department; that
7 they tampered with witnesses and allegedly threatened the
8 arrest of an FBI agent.

9 The charge against the defendant is contained in an
10 indictment. The indictment is simply the description of the
11 charges made by the government against the defendant. It is
12 not evidence of anything. To these charges, the defendant has
13 pled not guilty, and it will be the question of his guilt or
14 innocence to these charges that you'll be asked to decide if
15 you're selected as a trial juror in this case.

16 Now, we actually started yesterday, and we have put in 12
17 people in the jury box, and the reason that you were called is
18 because we need some additional jurors. Now I'm going to
19 continue asking you questions, and it's important that you
20 listen to the questions that are asked because you may be
21 called to replace one of the jurors seated in the jury box, and
22 I will ask you if any of those prior questions that I've asked
23 pertain to you.

24 Therefore, it's important that each of you listen
25 carefully to the questions that I will be asking and keep in

1 mind any of which call for an affirmative answer or other
2 explanation on your part. In that way, if you're called into
3 the jury box, I won't have to repeat each of the questions to
4 you. Now, it's important that all of you remain in the
5 courtroom during the questioning so that if you're called in to
6 replace a juror you will have heard all the Court's questions.

7 Now, later on this morning we will take a break, and when
8 we do take our break you are not to discuss this case with
9 anyone, including your fellow jurors, members of your family,
10 people involved in the trial or anyone else, nor are you
11 allowed to permit others to discuss the case with you. This
12 includes communicating by e-mail with anyone about the case.
13 Do not use any social networking sites such as blogs, Myspace,
14 Facebook, Twitter, and if anybody approaches you and tries to
15 talk with you about this case, please let me know about it
16 immediately.

17 Do not read any news stories or articles or listen to any
18 radio or television reports about the case or about anyone who
19 has anything to do with it. Do not do any research such as
20 consulting dictionaries, searching the Internet, using other
21 reference materials, and do not make any investigation about
22 the case on your own. If you need to communicate with me,
23 simply give a note to the clerk. And most importantly, do not
24 make up your mind about what your verdict should be until after
25 you've gone to the jury room to decide the case and you and

1 your fellow jurors have discussed the evidence. Keep an open
2 mind until then.

3 Now, are any of you taking any medication that would make
4 it difficult for you to give your full attention to the
5 evidence during this trial? Just raise your hand.

6 All right. Sir, if you'd just come forward for a moment,
7 please.

8 (Discussion held at sidebar.)

9 THE COURT: Hi. Okay. What medication are you
10 taking?

11 THE PROSPECTIVE JUROR: I'm taking for high blood
12 pressure in the morning.

13 THE COURT: Okay.

14 THE PROSPECTIVE JUROR: And for the nighttime, I
15 take it, like a prostate enlargement.

16 THE COURT: Okay.

17 THE PROSPECTIVE JUROR: So I have to go to the
18 bathroom like, you know, prostate.

19 THE COURT: Okay. We take breaks about every hour
20 and a half, hour and 45 minutes. You think you could sit
21 through that?

22 THE PROSPECTIVE JUROR: Sometimes when I sit for
23 long time, like I lightheaded because like my neck right here,
24 so I don't know. And I feel like I'm --

25 THE COURT: Okay. Well, if you're ultimately

1 selected as a juror, you would be able to stand up whenever you
2 wanted in the jury box, and do you think that might help with
3 that?

4 THE PROSPECTIVE JUROR: I don't think so.

5 THE COURT: Okay.

6 THE PROSPECTIVE JUROR: Because sometimes I feel
7 kind of dizzy like --

8 THE COURT: Okay. What's your name?

9 THE PROSPECTIVE JUROR: Tito Valdez.

10 THE COURT: Okay. Just have a seat right there on
11 the bench.

12 THE PROSPECTIVE JUROR: Right there? Okay.

13 THE COURT: Thank you.

14 MR. FOX: We would stipulate to having Mr. Valdez
15 excused.

16 MR. STEWARD: As would we.

17 THE COURT: Okay. Thank you.

18 MR. FOX: Your Honor, I think he's Number 7.

19 MS. RHODES: 7 -- do we have a list of the seven,
20 five or six?

21 THE COURT: The seven and five should have been on
22 the list from yesterday.

23 MS. RHODES: Okay.

24 MR. HAIG: His name is Tito Valdez? Jerome Haig.

25 (End of sidebar discussions.)

1 THE COURT: All right. Sir, if you'd just resume
2 your seat in the audience, please.

3 THE PROSPECTIVE JUROR: Thank you.

4 THE COURT: As a juror, you're obligated to follow
5 the law given to you by the Court. Is there anyone who'd be
6 unwilling or unable to follow the law as given to you by the
7 Court, disregarding your own notions or ideas as to what the
8 law is or ought to be?

9 One important task of the jury is to listen to the
10 testimony of the various witnesses and to decide how much or
11 how little weight the testimony should be given. Would any of
12 you be unable or unwilling to perform this task?

13 Does any prospective juror know anybody else on the panel?
14 Go ahead and take a look.

15 All right. So we've got a room of strangers.

16 Now, again, we expect all presentations of all phases of
17 this case, including the opening statements, the evidence, the
18 argument and the instructions, will last approximately three
19 weeks. And except for today, we're going to start at 8:00 in
20 the morning, and we're going to quit at 1:30, and we'll have
21 two short breaks during that time period.

22 Now, all of you think you can be with us for the next
23 three weeks during that time period?

24 Okay. All right. If you'd come over here, please.

25 (Discussion held at sidebar.)

1 THE COURT: Okay.

2 THE PROSPECTIVE JUROR: I'm the sole provider of my
3 three kids, and I'm four months pregnant. I'm considered
4 high-risk pregnancy also.

5 THE COURT: Okay. When are you due?

6 THE PROSPECTIVE JUROR: I'm due September.

7 THE COURT: September?

8 THE PROSPECTIVE JUROR: September.

9 THE COURT: What do you do for a living?

10 THE PROSPECTIVE JUROR: I'm customer service.

11 THE COURT: Where do you work?

12 THE PROSPECTIVE JUROR: HD Supply in San Fernando.

13 THE COURT: Are you married?

14 THE PROSPECTIVE JUROR: No.

15 THE COURT: Okay. How many people reside in your
16 household?

17 THE PROSPECTIVE JUROR: It is my sister and her
18 family, myself with my kids.

19 THE COURT: Okay. And how many children do you
20 have?

21 THE PROSPECTIVE JUROR: I have three.

22 THE COURT: Okay. And how old are they?

23 THE PROSPECTIVE JUROR: There's a 5-year-old,
24 10-year-old and a 12-year-old.

25 THE COURT: Okay. And how many people are working

1 in your household?

2 THE PROSPECTIVE JUROR: Just me and my sister.

3 THE COURT: Okay. And what does your sister do for
4 a living?

5 THE PROSPECTIVE JUROR: I believe she works for
6 Medical.

7 THE COURT: Okay. If you could just have a seat
8 there on the bench.

9 MR. FOX: Your Honor, I think she's juror 650,
10 Lorena Maciel.

11 THE COURT: Well, I'll ask her when she comes back.

12 MR. FOX: Okay.

13 MR. STEWARD: We would like to excuse her.

14 MR. FOX: Agree.

15 THE COURT: Okay. We're going to excuse you, and I
16 want you to return to the jury assembly room on the third
17 floor. And what is your name?

18 THE PROSPECTIVE JUROR: Lorena Maciel.

19 THE COURT: Thank you.

20 MR. FOX: Your Honor, if we can raise one more
21 issue. We checked on our list from yesterday, and we did not
22 see a Tito Valdez on it. So I don't know we have a list of the
23 seven.

24 MR. HAIG: This is Jerome Haig. I agree. We don't
25 have him on our list.

1 THE COURT: We'll see if we can --

2 MR. HAIG: Thank you, Your Honor.

3 THE COURT: -- fix that.

4 (End of sidebar discussions.)

5 THE COURT: Ladies and gentlemen, as jurors you're
6 going to be the finders of fact in this case. You're required
7 to base your decisions solely on the evidence that's presented
8 here in court. You may not consider any facts or information
9 that you've learned outside of court, and you may not rely on
10 your own prejudices or biases in judging this case.

11 THE PROSPECTIVE JUROR: We couldn't hear you.

12 THE DEPUTY CLERK: Your microphone.

13 THE COURT: That's fine. Okay. Sorry.

14 As jurors you're going to be the finders of fact in this
15 case. You're required to base your decision solely on the
16 evidence that's presented here in court. You may not consider
17 any facts or information that you learn outside of court, and
18 you may not rely on your own prejudice or biases in judging
19 this case. Do any of you believe you would not be able to do
20 this?

21 As a judge, it's my job to instruct you on the law that's
22 applicable to this case. You're required to find the facts and
23 then apply the law as I give it to you to those facts. Do any
24 of you feel you'd have any difficulty in accepting and
25 following my instructions concerning the law that governs this

1 case?

2 As you may know, a defendant is presumed innocent until
3 proven guilty. This presumption of innocence continues until
4 the jury concludes, if it does, that the defendant is guilty
5 beyond a reasonable doubt. If the jury finds that the
6 government has not proved the defendant's guilt beyond a
7 reasonable doubt, it must return a not guilty verdict, and you
8 cannot return a guilty verdict unless you find that the
9 government has established the defendant's guilt beyond a
10 reasonable doubt. This is a different standard than is used in
11 civil cases. There, the jury simply has to find that a party
12 has established that its version of the facts is more probably
13 true than not.

14 Is there anything in the criminal standard of proof beyond
15 a reasonable doubt that you believe would make it difficult for
16 you to be a fair and impartial juror in this case?

17 Yes, ma'am.

18 THE PROSPECTIVE JUROR: What are you saying?

19 THE COURT: Okay. What I'm saying is that there is
20 a standard of proof in a criminal case that's proof beyond a
21 reasonable doubt, and that's different than the standard that's
22 used in a civil case. In a civil case, the jury simply has to
23 find that one party has shown that its version of the facts is
24 more probably true than not. In a criminal case, you have to
25 show, and the jury has to find, that the government has proved

1 its case beyond a reasonable doubt.

2 And what I'm asking you is is whether there's anything in
3 the standard of proof beyond a reasonable doubt that you
4 believe would make it difficult for you to be a fair and
5 impartial juror in this case.

6 THE PROSPECTIVE JUROR: I'm just not sure if I would
7 understand the whole thing.

8 THE COURT: That's fine. All right. We'll get to
9 that in just a moment. Thank you.

10 Unlike the government, the defendant has no burden and
11 does not have to present any evidence if he chooses not to do
12 so. You must wait until all of the evidence has been presented
13 before making up your mind. Are there any of you who believe
14 that you could not withhold judgment until all of the evidence
15 has been presented?

16 The potential punishment for the crimes that have been
17 charged is a matter for the Court to decide. Are there any of
18 you who believe that you could not follow that instruction?

19 Now, are there any of you who believe that you for some
20 reason should not be seated as a juror in this case?

21 Okay. All right. I'm going to have the lady in the back,
22 if you'd join us over here.

23 (Discussion held at sidebar.)

24 THE PROSPECTIVE JUROR: Hi.

25 THE COURT: Just one minute. And what is your name?

1 THE PROSPECTIVE JUROR: Tip Petcha.

2 THE COURT: Okay. And your last name?

3 THE PROSPECTIVE JUROR: P-E-T-C-H-A, Petcha.

4 THE COURT: Okay. Now, you had raised a question
5 about proof beyond a reasonable doubt.

6 THE PROSPECTIVE JUROR: Yeah.

7 THE COURT: Okay. The Court is going to give you
8 some further instructions, and I hope you understand what those
9 terms mean. Okay?

10 What do you do for a living?

11 THE PROSPECTIVE JUROR: Right now, I'm not -- I am
12 retired.

13 THE COURT: Okay. And what did you do before you
14 retired?

15 THE PROSPECTIVE JUROR: I -- the manager of the
16 snack shop.

17 THE COURT: Okay. And where did you work?

18 THE PROSPECTIVE JUROR: In Hollywood.

19 THE COURT: And where are you from originally?

20 THE PROSPECTIVE JUROR: Thailand.

21 THE COURT: Okay. And how long have you been in
22 this country?

23 THE PROSPECTIVE JUROR: About 30 years.

24 THE COURT: Okay. And are you married?

25 THE PROSPECTIVE JUROR: Yes.

1 THE COURT: And what does your husband do?

2 THE PROSPECTIVE JUROR: Right now, he doesn't have
3 job.

4 THE COURT: Okay. Did you get a copy of the
5 questionnaire yet?

6 THE PROSPECTIVE JUROR: No.

7 THE COURT: Okay.

8 THE PROSPECTIVE JUROR: Because at first -- at first
9 when you said that if we can stay for three weeks, I
10 misunderstood that is -- cannot stay for three weeks or
11 something, so --

12 THE COURT: Okay. So you would -- you'd have
13 difficulty staying for three weeks?

14 THE PROSPECTIVE JUROR: Also, yeah.

15 THE COURT: Okay. What I'd like you to do is fill
16 out this questionnaire and take that up to the jury assembly
17 room and give it to one of the officials.

18 THE PROSPECTIVE JUROR: Okay.

19 THE COURT: Okay. And then we'll let you know.

20 THE PROSPECTIVE JUROR: Oh, okay. Thank you.

21 THE COURT: All right. Anybody have any objection?

22 MR. STEWARD: No.

23 MR. FOX: No.

24 (End of sidebar discussions.)

25 THE COURT: Now, for the other people that have

1 raised your hands, all right, why don't we take the first
2 person on the second row there.

3 (Discussion held at sidebar.)

4 THE PROSPECTIVE JUROR: Hello.

5 THE COURT: Okay. I remember we had talked with you
6 earlier. You have the dizziness problem, correct?

7 THE PROSPECTIVE JUROR: Yeah.

8 THE COURT: Okay. Just have a seat. Just resume
9 your seat in the audience. Thank you.

10 (End of sidebar discussions.)

11 THE COURT: All right. Who's next? All right.

12 THE DEPUTY CLERK: He's on the list from yesterday,
13 this gentleman that's coming up.

14 THE COURT: Okay.

15 (Discussion held at sidebar.)

16 THE PROSPECTIVE JUROR: Hi.

17 THE COURT: Stand a little over here. Now, is there
18 a reason you believe you can't --

19 THE PROSPECTIVE JUROR: Okay. First off, I couldn't
20 comprehend pretty much saying that what you said, and then I'm
21 biased towards race because I was beaten up by a couple
22 Hispanic guy and was robbed by that person, so I'm not sure.

23 THE COURT: Okay. What do you do for a living?

24 THE PROSPECTIVE JUROR: I'm a travel agent.

25 THE COURT: You're a travel agent?

1 THE PROSPECTIVE JUROR: Uh-huh.

2 THE COURT: Okay. And who do you work for?

3 THE PROSPECTIVE JUROR: A local travel agent.

4 THE COURT: What's the name of it?

5 THE PROSPECTIVE JUROR: Dynasty Travel.

6 THE COURT: Okay. And where are they located?

7 THE PROSPECTIVE JUROR: Monterey Park.

8 THE COURT: Okay. And how long have you worked for
9 them?

10 THE PROSPECTIVE JUROR: About six years, seven
11 years.

12 THE COURT: Okay. And where are you originally
13 from?

14 THE PROSPECTIVE JUROR: China.

15 THE COURT: Okay. And how long have you been here?

16 THE PROSPECTIVE JUROR: About 12 years.

17 THE COURT: 12 years? Did you go to school here?

18 THE PROSPECTIVE JUROR: Yes.

19 THE COURT: Where'd you go to school?

20 THE PROSPECTIVE JUROR: Cal Poly.

21 THE COURT: Cal Poly?

22 THE PROSPECTIVE JUROR: Yeah.

23 THE COURT: And how long did you go to Cal Poly?

24 THE PROSPECTIVE JUROR: About two and a half.

25 THE COURT: Two and a half years?

1 THE PROSPECTIVE JUROR: Yeah, but I have bad
2 listening.

3 THE COURT: You have bad?

4 THE PROSPECTIVE JUROR: Listening here.

5 THE COURT: You have bad hearing?

6 THE PROSPECTIVE JUROR: Yes. Some of the time I
7 couldn't hear completely what you were saying, so sometime just
8 didn't hear what you said.

9 THE COURT: Okay. Well, we have a device that you
10 can use that will assist you in hearing.

11 THE PROSPECTIVE JUROR: Yeah, okay.

12 THE COURT: Okay? What's your name?

13 THE PROSPECTIVE JUROR: Jia Fang, J-I-A, last name
14 F-A-N-G.

15 THE COURT: Okay. Just have a seat right there on
16 the bench for me.

17 Do you have those other -- here's our alphabetized list
18 from yesterday.

19 (End of sidebar discussions.)

20 THE COURT: Okay. Anybody else?

21 (Discussion held at sidebar.)

22 THE PROSPECTIVE JUROR: Good morning, Your Honor.

23 THE COURT: Good morning.

24 THE PROSPECTIVE JUROR: Basically, I won't be able
25 to attend this because I really don't have a job right now, and

1 I'm actually taking care of my brothers, taking them to school
2 early in the morning. And it's kind of pretty distant from
3 where I live to get here, and I don't have any transportation
4 to get here, sir.

5 THE COURT: Okay. Where do you live?

6 THE PROSPECTIVE JUROR: Lakewood, California, sir.

7 THE COURT: And how many people reside in your
8 household?

9 THE PROSPECTIVE JUROR: Right now, it was just my
10 two parents and my two brothers right now, and both of my
11 parents -- well, my mother works in fruit and agriculture in
12 Los Alamitos, and my father works in construction. So
13 basically, they both have the same -- they only have one car to
14 use. So today I had to use my mother's car for a ride now, and
15 her friend had to pick her up from work, and she can't be
16 missing any days of work whatsoever.

17 THE COURT: Okay. Are you working?

18 THE PROSPECTIVE JUROR: No, sir.

19 THE COURT: You're a student?

20 THE PROSPECTIVE JUROR: I'm trying to -- I'm trying
21 to go back to school right now, and I got laid off on my last
22 job because the hours were cut back.

23 THE COURT: Okay. Just have a seat on that bench
24 right there.

25 THE PROSPECTIVE JUROR: Yes, sir.

1 THE COURT: I'll ask him some more questions if you
2 want to keep him.

3 MR. STEWARD: No, stipulate to him being dismissed.

4 MR. FOX: Agree.

5 THE COURT: Okay.

6 (End of sidebar discussions.)

7 THE COURT: Anybody else? Okay.

8 (Discussion held at sidebar.)

9 THE COURT: Hi, what's your name?

10 THE PROSPECTIVE JUROR: Yvette.

11 THE COURT: Yvette?

12 THE PROSPECTIVE JUROR: Jennings.

13 THE COURT: Okay. And is there a reason you don't
14 think you should be seated as a juror in this case?

15 THE PROSPECTIVE JUROR: Well, due to the 21 days, I
16 cannot -- I can't be able to -- without work.

17 THE COURT: Okay. Where do you work?

18 THE PROSPECTIVE JUROR: I work in freight for order.
19 I'm accounting.

20 THE COURT: Okay. And do they reimburse you for
21 jury service?

22 THE PROSPECTIVE JUROR: No, they don't. They don't
23 pay me. I'm only the one working right now.

24 THE COURT: Okay. Are you married?

25 THE PROSPECTIVE JUROR: No, I'm a single parent.

1 THE COURT: Okay. Do you have any children?

2 THE PROSPECTIVE JUROR: One.

3 THE COURT: How old is your child?

4 THE PROSPECTIVE JUROR: He's 21.

5 THE COURT: Okay. Is he living with you?

6 THE PROSPECTIVE JUROR: Yeah, it's only me and him,
7 and he's not working.

8 THE COURT: And he's not working?

9 THE PROSPECTIVE JUROR: No.

10 THE COURT: Okay. Just have a seat next to those
11 two gentlemen on the first row.

12 MR. FOX: Are these the ones time-qualified by the
13 magistrate?

14 THE COURT: I have no idea what's going on.

15 MR. FOX: Okay. Yvette Jennings.

16 MR. JAUREGUI: Jennings.

17 MR. FOX: 658.

18 THE PROSPECTIVE JUROR: Good morning, Your Honor.

19 THE COURT: Good morning.

20 THE PROSPECTIVE JUROR: So I was laid off five
21 months ago, and I've been going to interviews. And I have a
22 bunch of interviews set up for next week, and I don't want to
23 miss the opportunity to get a new job. And I don't know if
24 it's important, but my father too was a jail warden, so I don't
25 want that to affect the case.

1 THE COURT: What's your marital status?

2 THE PROSPECTIVE JUROR: I'm married.

3 THE COURT: Okay. What's your husband do?

4 THE PROSPECTIVE JUROR: He has a small business that
5 hasn't been really doing very well.

6 THE COURT: Okay. What's the nature of the
7 business?

8 THE PROSPECTIVE JUROR: It's a distribution company.

9 THE COURT: Okay.

10 THE PROSPECTIVE JUROR: And I'm sending a child to
11 college.

12 THE COURT: Okay. How many people currently reside
13 in your household?

14 THE PROSPECTIVE JUROR: My mother and my -- my son's
15 in the dorm, and my husband and myself. And my unemployment's
16 going to run out next month -- I mean, no, end of the month,
17 this month.

18 THE COURT: Okay. See that lovely lady sitting on
19 the first row? Go grab a seat next to her.

20 THE PROSPECTIVE JUROR: Thank you.

21 MR. STEWARD: My thought is to excuse the last two
22 ladies, the Latino gentleman to their right with -- the
23 gentleman sitting to the right of him, my sense would be he
24 just doesn't want to serve, and those excuses are not enough.

25 THE COURT: I probably concur, but if you like him,

1 we'll keep him.

2 MR. FOX: Yeah, I agree at this stage, and to the
3 extent he's going to be stricken, I'd like the penalty box for
4 him. Because I agree with Mr. Steward, I think that he just
5 doesn't want to serve but...

6 MR. STEWARD: I think we're going to let him go on
7 the theory that we do have a number of jurors at this point, so
8 to be safe.

9 THE COURT: All right.

10 (End of sidebar discussions.)

11 THE COURT: Anybody else? Okay.

12 (Discussion held at sidebar.)

13 THE PROSPECTIVE JUROR: Hi, Judge.

14 THE COURT: Hi, how are you?

15 THE PROSPECTIVE JUROR: Good.

16 THE COURT: Okay.

17 THE PROSPECTIVE JUROR: Okay. I'm financially
18 drowning. Three weeks on this trial would devastate me.

19 THE COURT: Okay. Are you married?

20 THE PROSPECTIVE JUROR: Married.

21 THE COURT: Kids?

22 THE PROSPECTIVE JUROR: Two kids in college, one on
23 the way to college. And my mother-in-law just had a stroke
24 last week, and now I got to financially take care of her until
25 she gets back on her feet.

1 THE COURT: Okay. Does your wife work?

2 THE PROSPECTIVE JUROR: Part-time as a caterer.

3 THE COURT: And what do you do for a living?

4 THE PROSPECTIVE JUROR: I'm a foreman on the docks.

5 THE COURT: Okay. And you work full-time?

6 THE PROSPECTIVE JUROR: I work full-time every day.

7 THE COURT: Okay.

8 THE PROSPECTIVE JUROR: Every day.

9 Also, just to let you know, no offense, but I don't know
10 if I trust attorneys because my brother-in-law is going through
11 an ugly, ugly divorce. His attorney happens to be a twin
12 brother of the attorney that's representing her. Come to find
13 out he was best friends with the father, so he fires him. Then
14 there's criminal allegations against him.

15 THE COURT: You're ahead now, so don't --

16 THE PROSPECTIVE JUROR: Okay. Just laying it out
17 there.

18 THE COURT: That's okay.

19 THE PROSPECTIVE JUROR: Being truthful.

20 THE COURT: That's okay. So see those two ladies
21 over there?

22 THE PROSPECTIVE JUROR: Yes.

23 THE COURT: First row, have a seat there.

24 (End of sidebar discussions.)

25 THE COURT: Anybody else?

1 (Discussion held at sidebar.)

2 THE COURT: Hi.

3 THE PROSPECTIVE JUROR: Hi.

4 THE COURT: You don't think you can be with us?

5 THE PROSPECTIVE JUROR: Well, I'm a now
6 newly-retired fireman, was so for 35 years. Back when this all
7 took place, there was lots of talk on calls and scenes about
8 his guilt.

9 THE COURT: About?

10 THE PROSPECTIVE JUROR: About his guilt and that the
11 officers were all saying he was guilty. Up until I heard about
12 the indictment, I thought he was already in jail. I'm not
13 proud of it, but I got to tell you that I was already of the
14 opinion that he was guilty and that he'd already gone to jail.
15 I just got to be honest with you.

16 THE COURT: That's okay. I appreciate that.

17 Think you'd have difficulty putting that aside and judging
18 this case solely on the evidence you hear here in court?

19 THE PROSPECTIVE JUROR: Well, I'd like to try. I
20 mean, I would like to think that I could do that, but all this
21 time I was under the impression that he was guilty. But these
22 people that claim to be in the know knew that he was guilty,
23 and so I felt compelled to come and tell you.

24 THE COURT: That's fine. I appreciate that.

25 But what I -- what we want are jurors who can put aside

1 what they may have heard, opinions they may have formulated and
2 who can sit here and decide the guilt or innocence of the
3 defendant based on just what they hear here in court. And if
4 you can do that, we'd love to have you. If you can't, we just
5 need to know that.

6 THE PROSPECTIVE JUROR: I don't know that I can.

7 That's why I said it.

8 THE COURT: That's fine. Okay. Just have a seat --
9 what's your name?

10 THE PROSPECTIVE JUROR: My name, Ed Weaver.

11 THE COURT: Okay. Just have a seat right there on
12 the first row.

13 MR. FOX: We stipulate.

14 MR. STEWARD: We do as well.

15 THE COURT: All right. Okay. So what I'm going to
16 do is I'm going to send these people back up. I'm going to
17 excuse the rest of the people, send them back up, and then
18 we'll take a five- or ten-minute break and let the people from
19 yesterday come in and start.

20 MR. FOX: Do we know the names of all of them? The
21 last one wearing the scarf --

22 MR. JAUREGUI: The one that has the job interviews
23 next week.

24 MR. FOX: I didn't want to look at her number
25 because of where it was placed.

1 (End of sidebar discussions.)

2 THE COURT: All right. The lady with the scarf, if
3 you could come here.

4 (Discussion held at sidebar.)

5 THE COURT: Okay. What's your name?

6 THE PROSPECTIVE JUROR: Joanne.

7 THE COURT: Joanne?

8 THE PROSPECTIVE JUROR: Lauximana [phonetic].

9 THE COURT: Okay. All right. You can go to the
10 jury assembly room on the third floor.

11 THE PROSPECTIVE JUROR: Okay.

12 THE COURT: Okay?

13 (End of sidebar discussions.)

14 THE COURT: Ms. Ms. Yoo hoo.

15 (Discussion held at sidebar.)

16 THE PROSPECTIVE JUROR: Yes, Your Honor.

17 THE COURT: Tell them you've been excused.

18 THE PROSPECTIVE JUROR: Okay. Thank you.

19 THE COURT: Okay.

20 (End of sidebar discussions.)

21 THE COURT: All right. Sir.

22 (Discussion held at sidebar.)

23 THE COURT: You can return to the jury assembly room
24 on the third floor.

25 THE PROSPECTIVE JUROR: Okay. Thank you.

1 (End of sidebar discussions.)

2 THE COURT: Okay. Now, other than the people who
3 are seated on that first row, the rest of you think you can all
4 be with us, correct?

5 | Okay. All right. Thank you.

Now, the gentleman that's seated on the end here in the first row.

8 THE PROSPECTIVE JUROR: Yes, Your Honor.

9 THE COURT: You can return to the jury assembly room
10 on the third floor. Okay.

11 | And, I'm sorry, your name again?

12 | THE PROSPECTIVE JUROR: Weaver, Ed Weaver.

13 THE COURT: All right. Thank you.

14 | And, sir, your name?

15 THE PROSPECTIVE JUROR: John Mascola [phonetic].

16 THE COURT: All right. Sir, you can return to the
17 jury assembly room on the third floor.

18 THE PROSPECTIVE JUROR: Thank you.

19 THE COURT: And, Ms., your name?

THE PROSPECTIVE JUROR: Yvette Jennings.

THE COURT: All right. And you can return to the jury assembly room on the third floor.

23 THE COURT: And, sir, your name?

24 THE PROSPECTIVE JUROR: Mario Gomez.

25 | THE COURT: All right. And, sir, you can return to

1 the jury assembly room on the third floor.

2 THE PROSPECTIVE JUROR: Yes, sir.

3 THE COURT: And, sir?

4 THE PROSPECTIVE JUROR: Jia Fang.

5 THE COURT: Okay. If you'd just have a seat there
6 in the audience.

7 All right. Ladies and gentlemen, we're going to take a
8 ten-minute break, and again, I want to remind you you're not to
9 discuss this case with anyone, including your fellow jurors,
10 members of your family, people involved in the trial or anyone
11 else, and you're not allowed to -- you're not allowed to permit
12 others to discuss the case with you. If anybody approaches you
13 and tries to talk with you about this case, please let me know
14 about it immediately.

15 Do not use any social networking sites. Do not read any
16 news stories, articles or listen to any radio or television
17 reports about the case or about anyone who has anything to do
18 with it. Do not do any research such as consulting
19 dictionaries, searching the Internet or using other reference
20 materials, and do not make any investigation about the case on
21 your own. If you need to communicate with me, simply give a
22 signed note to the clerk.

23 Now, has anybody seated here today read anything about
24 this case in the last 24 hours, 48 hours? Okay. All right.

25 Would either of you have any difficulty putting aside

1 anything that you may have read or heard and deciding this case
2 based solely on the evidence that's presented here in court?
3 Both of you think you can do that? Okay.

4 The record should reflect that both prospective jurors
5 nodded that they could do that.

6 All right. Thank you. You can take a break. We're going
7 to resume in ten minutes.

8 (Pause in proceedings.)

9 THE COURT: Okay. We'll resume in another ten
10 minutes. I take it there may have been an article that
11 appeared yesterday.

12 MR. STEWARD: Actually, several, I think, Your
13 Honor. They're all part of the same news system, but Mr. Haig
14 saw the one in South Bay.

15 MR. HAIG: And there was one in the Times this
16 morning. Not much detail but...

17 THE COURT: Okay. I'll remind people again -- we'll
18 give them instructions, okay? Anything else?

19 MR. FOX: Your Honor, we have some witnesses we told
20 we'd call around noon to let them know whether they should be
21 expected. Based on timing, I'm guessing that we don't get to
22 them today. Is it okay if we call them off? Because I'm
23 thinking the earliest we have a jury is probably three o'clock
24 at this point after closing statements.

25 THE COURT: How long is your opening statement?

1 MR. FOX: Opening statements. Did we get to
2 closings already? Opening, I think mine's going to be about 45
3 minutes.

4 THE COURT: How long is your opening statement?

5 MR. HAIG: About 20 minutes, Your Honor. Well, I
6 don't want to under -- let's say 25 minutes.

7 MR. FOX: We could have one witness available if
8 that's better for you.

9 THE COURT: Tell you what. Why don't we have at
10 least one, and I'll let you know by -- you're probably right,
11 but I'll let you -- that's fine.

12 MR. FOX: Thank you, Your Honor.

13 THE COURT: Of course, now you'll both go, Oh, that
14 panel's just fine.

15 Okay. See you in a couple minutes.

16 MR. FOX: Thank you.

17 (Off the record at 11:24 a.m.)

18 (On the record at 11:40 a.m.)

19 THE DEPUTY CLERK: Recalling item number one,
20 CR 15-255, U.S.A. vs. Paul Tanaka.

21 Counsel, state your appearances, please.

22 MR. FOX: Good morning, Your Honor. Brandon Fox,
23 Lizabeth Rhodes and Eddie Jauregui on behalf of the United
24 States. Also sitting at counsel table is FBI Special Agent
25 Leah Tanner.

1 THE COURT: Good morning.

2 MS. RHODES: Morning.

3 MR. STEWARD: And, Your Honor, Dean Steward for
4 Mr. Tanaka.

5 MR. HAIG: And Jerome Haig for Mr. Tanaka.

6 THE COURT: Good morning.

7 MR. HAIG: Good morning.

8 MR. STEWARD: Morning.

9 THE COURT: All right. Ladies and gentlemen, we're
10 going to resume with jury selection.

11 If I could see counsel at sidebar.

12 (Discussion held at sidebar.)

13 THE COURT: I believe where we were yesterday, there
14 were no additional questions for any of the jurors seated in
15 the jury box. Do you have any challenges for cause?

16 MR. STEWARD: For cause in the jury box, no.

17 MR. FOX: No, Your Honor.

18 THE COURT: All right. First peremptory is going to
19 rest with the government.

20 MR. FOX: We've already explained to the defense
21 that we are going to move to strike Prospective Juror Number 2.

22 THE COURT: Okay.

23 (End of sidebar discussions.)

24 THE COURT: Ladies and gentlemen, each side is
25 entitled to a certain number of peremptory challenges to

1 prospective jurors seated in the jury box.

2 (Reporter admonition.)

3 THE COURT: A peremptory challenge allows counsel to
4 remove a prospective juror that he or she believes may be
5 unsympathetic to his or her case. A peremptory challenge is
6 one for which no reason need be given. Please don't be
7 offended if a peremptory challenge is exercised. It's simply
8 something that lawyers do.

9 All right. The first peremptory rests with the
10 government.

11 MR. FOX: Thank you, Your Honor.

12 The government thanks and excuses Prospective Juror Number
13 2.

14 THE COURT: All right. You'd like to ask the Court
15 to thank and excuse Juror Number 2?

16 MR. FOX: Oh, sorry. Sorry, Your Honor. We would
17 like to ask the Court to thank and excuse Prospective Juror
18 Number 2.

19 THE COURT: All right. You're excused. You may
20 return to the jury assembly room on the third floor. Thank you
21 very much.

22 All right. I'm going to ask the clerk to call the name of
23 another prospective juror. As your name is called, if you'd
24 please come to the lectern, please.

25 THE DEPUTY CLERK: Jon Gebhart.

1 THE COURT: Sir, did you hear the questions that
2 I've inquired about earlier?

3 THE PROSPECTIVE JUROR: Yes.

4 THE COURT: Is there anything that I've inquired
5 about that in good conscience you should disclose to us?

6 THE PROSPECTIVE JUROR: Not that I believe.

7 THE COURT: Anything about the length of the trial
8 that would prevent you from serving?

9 THE PROSPECTIVE JUROR: No.

10 THE COURT: All right. I'm going to ask if you'd
11 take the second chair on the first row, and if you could take
12 the background questionnaire and tell us a little bit about
13 yourself.

14 THE PROSPECTIVE JUROR: My name's Jon Gebhart. I
15 currently live in Lancaster, California. I was born and raised
16 there. I spent some time in Long Beach going to school and
17 living there afterwards. I'm currently single, no children. I
18 have my bachelor's in political science. No military service.
19 Currently work for Northrop Grumman. In the past, I worked for
20 the Long Beach Police Department as a dispatcher.

21 THE COURT: What do you do for Northrop Grumman?

22 THE PROSPECTIVE JUROR: I'm a tool prep attendant.

23 THE COURT: And when you were working at the Long
24 Beach Police Department, did you have contact with any of the
25 patrol officers?

1 THE PROSPECTIVE JUROR: Yes.

2 THE COURT: Okay. Anything about your experiences
3 at the Long Beach Police Department that causes you to have any
4 concerns about your ability to be fair and impartial to both
5 sides in this case?

6 THE PROSPECTIVE JUROR: No.

7 THE COURT: Are you going -- there may be testimony
8 by a law enforcement officers in this case. Are you going to
9 be able to judge their credibility the same way that you would
10 that of any other witness?

11 THE PROSPECTIVE JUROR: Yes.

12 THE COURT: Ever taken any courses in criminal law
13 or criminal justice?

14 THE PROSPECTIVE JUROR: I did take a few courses in
15 constitutional law.

16 THE COURT: Anything about that experience that
17 causes you to have any concerns about your ability to follow
18 the Court's instructions?

19 THE PROSPECTIVE JUROR: No. I do have prior jury
20 service with a criminal trial.

21 THE COURT: When was that?

22 THE PROSPECTIVE JUROR: Two years ago.

23 THE COURT: And what was the case about, just
24 generally?

25 THE PROSPECTIVE JUROR: It was a DUI case.

1 THE COURT: And was the jury able to reach a
2 verdict?

3 THE PROSPECTIVE JUROR: Yes.

4 THE COURT: Ever served as a party or as a witness
5 in a criminal case or a civil case?

6 THE PROSPECTIVE JUROR: No.

7 THE COURT: Have you had a chance to look at the
8 criminal case questionnaire?

9 THE PROSPECTIVE JUROR: Yes.

10 THE COURT: Do you have any yes responses to any of
11 those questions?

12 THE PROSPECTIVE JUROR: Yes to 4 and 10.

13 THE COURT: Could you tell me about Number 4.

14 THE PROSPECTIVE JUROR: I served an internship at a
15 courthouse, superior court, for a summer under a judge.

16 THE COURT: What kind of cases did the judge hear?

17 THE PROSPECTIVE JUROR: Mostly criminal cases of all
18 varieties.

19 THE COURT: Okay. And where was that at --

20 THE PROSPECTIVE JUROR: Lancaster, California.

21 THE COURT: -- the superior court?

22 THE PROSPECTIVE JUROR: Lancaster, California.

23 THE COURT: Anything about that experience that
24 caused you to have any concerns about your ability to be fair
25 and impartial?

1 THE PROSPECTIVE JUROR: No.

2 THE COURT: And what was the other question?

3 THE PROSPECTIVE JUROR: Number 10. My father, he
4 works for the California Department of Corrections as a
5 sergeant. He's been doing that for 23 years.

6 THE COURT: And which facility does he work at?

7 THE PROSPECTIVE JUROR: The facility in Lancaster.

8 THE COURT: You ever talk to him about his work?

9 THE PROSPECTIVE JUROR: A little bit. He doesn't
10 like to disclose a whole lot, but some general things.

11 THE COURT: Think you'd have any difficulty putting
12 aside anything that you and he may have talked about and decide
13 this case based solely on the evidence you hear here in court?

14 THE PROSPECTIVE JUROR: No.

15 THE COURT: Any other yes or affirmative answers to
16 any of the other questions?

17 THE PROSPECTIVE JUROR: No.

18 THE COURT: All right. Thank you very much.

19 Pass for cause as to the newly-seated juror?

20 MR. FOX: Yes, Your Honor.

21 MR. STEWARD: Yes, Your Honor.

22 THE COURT: Any additional questions either side
23 would like addressed to the newly-seated juror?

24 MR. FOX: Can I have one moment, Your Honor?

25 THE COURT: Yes.

1 (Plaintiff's counsel conferred off the record.)

2 MR. FOX: None from the government, Your Honor.

3 MR. STEWARD: None from the defense, Your Honor.

4 THE COURT: All right. I believe the next
5 peremptory rests with the defense.

6 MR. STEWARD: Yes, Your Honor. We'd ask the Court
7 to thank and excuse Juror Number 2, Mr. Gebhart.

8 THE COURT: All right. Sir, you're excused.

9 Getting closer. You may return to the jury assembly room on
10 the third floor. Thank you very much for your service.

11 I'm going to ask the clerk to call the name of another
12 prospective juror.

13 THE DEPUTY CLERK: Lauren Wilton.

14 THE PROSPECTIVE JUROR: Hello.

15 THE COURT: Did you hear the questions I asked of
16 the other prospective jurors?

17 THE PROSPECTIVE JUROR: Yes.

18 THE COURT: Is there anything that I've inquired
19 about that in good conscience you should disclose to us?

20 THE PROSPECTIVE JUROR: No.

21 THE COURT: Anything about the length of the trial
22 that would prevent you from serving?

23 THE PROSPECTIVE JUROR: What we discussed yesterday
24 that, no, my employer will pay for as much as they need to pay
25 for.

1 THE COURT: Okay. All right. If you could take
2 that empty chair. If you could take the background
3 questionnaire and tell us a little bit about yourself.

4 THE PROSPECTIVE JUROR: Sure. My name is Lauren
5 Wilton. I live in La Crescenta, California. I have lived
6 there for two and a half years. Prior to living in
7 La Crescenta, I lived in Pasadena. I am married. I do not
8 have any children. I have a bachelor of science in human
9 resources management. I have a bachelor of science in human
10 resources management from Sonoma State University and a master
11 of business administration with a concentration in HR from
12 Cal Poly Pomona. I do not have any military service. I work
13 in human resources at Nestle in Glendale.

14 THE COURT: What does your husband do for a living?

15 THE PROSPECTIVE JUROR: My husband's an attorney.

16 THE COURT: And who does he work for?

17 THE PROSPECTIVE JUROR: He works for a company
18 called Mechanical Concepts. It's an in-house counsel. He
19 doesn't work in criminal law or anything like that.

20 THE COURT: Okay. Ever taken any criminal justice
21 seminars or classes?

22 THE PROSPECTIVE JUROR: Business law, but nothing
23 related to the criminal justice system.

24 THE COURT: Ever served on a jury before?

25 THE PROSPECTIVE JUROR: I did. Two and a half years

1 ago, I served on a three-and-a-half week trial in a criminal
2 case involving gangs, attempted murder, kidnapping.

3 THE COURT: Was the jury able to reach a verdict?

4 THE PROSPECTIVE JUROR: Yes, we were.

5 THE COURT: Ever been a party or a witness in a
6 criminal or civil case?

7 THE PROSPECTIVE JUROR: No.

8 THE COURT: Have you had a chance to look at the
9 criminal case questionnaire?

10 THE PROSPECTIVE JUROR: Yes.

11 THE COURT: Do you have any yes or affirmative
12 answers to any of those questions?

13 THE PROSPECTIVE JUROR: Yes, there were several -- a
14 few questions that asked about any people that you know or
15 related to that work for the Sheriff's Department, and I have
16 two friends that are both sheriffs with the Los Angeles County
17 Sheriff's Department.

18 THE COURT: Okay. Do you see them on a regular
19 basis?

20 THE PROSPECTIVE JUROR: Somewhat regularly.

21 THE COURT: Uh-huh. Do you ever talk to them about
22 their work?

23 THE PROSPECTIVE JUROR: I mean, it comes up. I talk
24 to them about my work too.

25 THE COURT: Would you have any difficulty putting

1 aside anything that the two of you ever talked about about
2 things in connection with their work as deputy sheriffs?

3 THE PROSPECTIVE JUROR: No.

4 THE COURT: Could you be fair and impartial to both
5 sides in this case?

6 THE PROSPECTIVE JUROR: I think so.

7 THE COURT: Any doubt in your mind?

8 THE PROSPECTIVE JUROR: No.

9 THE COURT: Any other yes or affirmative answers to
10 any --

11 THE PROSPECTIVE JUROR: No, that was -- that was the
12 only things that came up.

13 THE COURT: Okay. By the way, has anybody seated in
14 the jury box read any news reports about this case in the last
15 24 hours?

16 Okay. All right. Any additional questions for the
17 newly-seated juror?

18 MR. FOX: We have a few, Your Honor.

19 THE COURT: All right. Let's go to sidebar.

20 (Discussion held at sidebar.)

21 MR. FOX: Your Honor, the government would like some
22 follow-up questions based on her friendship with the people who
23 are in the Sheriff's Department: what rank they are, what
24 their duties are, have they discussed with her whether they
25 worked in the jails and what happened in the jails, whether

1 they discussed with her the defendant, Paul Tanaka.

2 THE COURT: Okay.

3 MR. HAIG: That's Mr. Haig's thought as well.

4 (End of sidebar discussions.)

5 THE COURT: Okay. Can you join us over here for a
6 moment.

7 THE PROSPECTIVE JUROR: Sure.

8 (Discussion held at sidebar.)

9 THE COURT: The friends that you have that work in
10 the Sheriff's Department, do you know what -- well, it's not a
11 precinct, but what station?

12 THE PROSPECTIVE JUROR: One of them is in the
13 Santa Clarita area, and one of them is in the La Crescenta
14 area. I couldn't tell you any -- like what place they go to or
15 anything.

16 THE COURT: That's fine. Do you know what their
17 ranks are?

18 THE PROSPECTIVE JUROR: I do not.

19 THE COURT: Okay. Do you know if either of them
20 have ever worked in the jails?

21 THE PROSPECTIVE JUROR: One of them might have.

22 THE COURT: Okay.

23 THE PROSPECTIVE JUROR: But it would have been the
24 one that's in Santa Clarita.

25 THE COURT: Okay. Have you had any discussions with

1 them about their work that they performed in the jails?

2 THE PROSPECTIVE JUROR: Not in the jails, no.

3 THE COURT: Okay. You ever had any discussions with
4 either one of them about the defendant in this case, Paul
5 Tanaka?

6 THE PROSPECTIVE JUROR: No.

7 THE COURT: Okay. You ever had any discussions with
8 them about anything to do with this case?

9 THE PROSPECTIVE JUROR: Huh-uh.

10 THE COURT: Okay. If you could just have a seat
11 right on that bench there.

12 Okay. Do you have a pass for cause as to the --

13 MR. STEWARD: Yes.

14 MR. FOX: Yes, Your Honor.

15 (End of sidebar discussions.)

16 THE COURT: Could you resume your seat. Thank you.

17 Do you have any other yes or affirmative answers to any of
18 the questions?

19 THE PROSPECTIVE JUROR: No, those were the only yes
20 answers.

21 THE COURT: All right. Thank you very much.

22 All right. The next peremptory rests with the defense.

23 MR. STEWARD: And, yes, Your Honor, we have
24 conferred with counsel. We'd ask the Court to thank and excuse
25 Juror Number 8, Mr. Hernandez.

1 THE COURT: All right. Sir, you're excused. Thank
2 you very much for your service.

3 I'm going to call -- ask the clerk to call the name of
4 another prospective juror.

5 THE DEPUTY CLERK: Lauri Lehtihalme.

6 THE COURT: Let's try it one more time.

7 THE DEPUTY CLERK: Lauri Lehtihalme.

8 THE COURT: Sir, did you hear the questions I asked
9 of the other prospective jurors?

10 THE PROSPECTIVE JUROR: Beg your pardon?

11 THE COURT: Did you hear the questions I asked
12 earlier of the prospective jurors?

13 THE PROSPECTIVE JUROR: Yes.

14 THE COURT: Is there anything that I've inquired
15 about that in good conscience you should disclose to us?

16 THE PROSPECTIVE JUROR: No, other than some of the
17 questions I have some yes on.

18 THE COURT: Okay. We'll get to that.

19 Anything about the length of the trial that would prevent
20 you from serving?

21 THE PROSPECTIVE JUROR: Only if it goes beyond April
22 27th.

23 THE COURT: Okay.

24 THE PROSPECTIVE JUROR: Because I have prepaid trips
25 on a cruise and airfare, et cetera.

1 THE COURT: All right. That shouldn't be a problem.

2 All right. If you could take that empty chair on the
3 second row, please.

4 All right. If you could take the background questionnaire
5 and tell us a little bit about yourself.

6 THE PROSPECTIVE JUROR: I'm Lauri Lehtihalme, also
7 known as Larry. I live in Granada Hills. I lived there since
8 1970.

9 THE COURT: Are you married?

10 THE PROSPECTIVE JUROR: I'm married.

11 THE COURT: And do you have any children?

12 THE PROSPECTIVE JUROR: Yes, I have two daughters.

13 THE COURT: And how old are your children?

14 THE PROSPECTIVE JUROR: My daughters are 43 and 40.

15 THE COURT: Okay. And what do they do?

16 THE PROSPECTIVE JUROR: No, wait a minute. 43 and
17 46, I'm sorry.

18 THE COURT: I think she probably would have
19 preferred the 40.

20 And what do your children do for a living?

21 THE PROSPECTIVE JUROR: Okay. One of my daughters
22 lives in Porter Ranch, and the other daughter lives in Newbury
23 Park.

24 THE COURT: And what do they do for a living?

25 THE PROSPECTIVE JUROR: The oldest, Tina, is a high

1 school counselor, Newbury Park High School, and my youngest
2 daughter, Shauna, is an assistant principal at Hale Middle
3 School in Woodland Hills.

4 THE COURT: Okay. And what is your educational
5 background?

6 THE PROSPECTIVE JUROR: My education background is I
7 have some college and also business college.

8 THE COURT: Ever served in the military?

9 THE PROSPECTIVE JUROR: I'm sorry, what?

10 THE COURT: Have you ever served in the military?

11 THE PROSPECTIVE JUROR: I was in the reserves in
12 Canada for a short period of time back in the mid-50s.

13 THE COURT: And what do you do for a living?

14 THE PROSPECTIVE JUROR: My first -- I had two. My
15 first career was manager in a telephone industry utilities, and
16 the second career, 25-plus years as a financial advisor,
17 self-employed.

18 THE COURT: And does your wife work?

19 THE PROSPECTIVE JUROR: My wife is retired.

20 THE COURT: And what did she do prior to her
21 retirement?

22 THE PROSPECTIVE JUROR: She retired from the United
23 States House of Representatives, worked for a congressman who's
24 currently retired.

25 THE COURT: You ever taken any courses in criminal

1 justice?

2 THE PROSPECTIVE JUROR: I had some training through
3 the L.A.P.D. in the neighborhood watch back in the '70s.

4 THE COURT: Okay. Ever served on a jury before?

5 THE PROSPECTIVE JUROR: Yes. Not on a federal, but
6 yes on the state.

7 THE COURT: Okay. And when was that?

8 THE PROSPECTIVE JUROR: I think I served three or
9 four times -- three times -- I would probably say about four,
10 five years ago. The years roll by.

11 THE COURT: Okay. And do you recall if that was a
12 civil or criminal case?

13 THE PROSPECTIVE JUROR: I'm sorry, what?

14 THE COURT: Was that a civil or criminal case that
15 you served as a juror?

16 THE PROSPECTIVE JUROR: One was criminal. I was
17 excused on that because of financial impact, and the other was
18 a civil case.

19 THE COURT: Okay.

20 THE PROSPECTIVE JUROR: Two civil cases.

21 THE COURT: Were the juries able to reach verdicts
22 in those civil cases?

23 THE PROSPECTIVE JUROR: In the civil case, there was
24 a payment made to the -- to the plaintiff.

25 THE COURT: Okay.

1 THE PROSPECTIVE JUROR: Monetary.

2 THE COURT: Ever been a party or a witness in a
3 civil or criminal case?

4 THE PROSPECTIVE JUROR: No, I have not.

5 THE COURT: Have you had a chance to look at the
6 criminal case questionnaire?

7 THE PROSPECTIVE JUROR: No, I don't have a
8 questionnaire.

9 THE COURT: Remember the questionnaire you had some
10 yes answers?

11 THE PROSPECTIVE JUROR: Number 2, we've been a
12 victim of crime, yes. We had two burglaries, and I also had a
13 car stolen.

14 THE COURT: Is there anything about the way those
15 cases were handled that caused you to have any dissatisfaction?

16 THE PROSPECTIVE JUROR: No.

17 THE COURT: Any other yes responses to any of the
18 other questions?

19 THE PROSPECTIVE JUROR: No. I'm sorry, repeat that.

20 THE COURT: Sure.

21 THE PROSPECTIVE JUROR: What number is that?

22 THE COURT: Do you have any yes responses to any of
23 the other questions?

24 THE PROSPECTIVE JUROR: Yes, I do.

25 THE COURT: Okay.

1 THE PROSPECTIVE JUROR: Number 4, through friends of
2 ours, we met them several times on social occasions. He's a
3 federal judge.

4 THE COURT: He's probably underpaid. There isn't
5 enough money.

6 You ever talk to him about the kind of work that he
7 does --

8 THE PROSPECTIVE JUROR: No.

9 THE COURT: -- or she does? Okay.

10 Any other yes responses to any of the other questions?

11 THE PROSPECTIVE JUROR: Yeah, I'm looking through
12 that. Number 10, I have some close friends that are retired
13 from the L.A.P.D., and my wife's cousin -- well, actually my
14 wife's brother-in-law's nephew is retired RCMP, and I had two
15 former football teammates way back in the '50s and '60s who
16 were law enforcement officers, and they both died.

17 Number 11, yes, I make financial contributions to the
18 L.A.P.D. support organization called S.O.L.I.D. for Devonshire
19 Division.

20 THE COURT: You think you can put aside the fact
21 that you make those contributions and be fair and impartial to
22 both sides in this case?

23 THE PROSPECTIVE JUROR: Yes.

24 THE COURT: You ever talk to anybody about the work
25 they do for the Los Angeles Police Department?

1 THE PROSPECTIVE JUROR: What they do in the police
2 department, their work?

3 THE COURT: Uh-huh. You ever talk to them about
4 their work?

5 THE PROSPECTIVE JUROR: What they did when they
6 retired, yeah. I used to know what they did, yes.

7 THE COURT: Okay. Any of them ever worked in the
8 jails?

9 THE PROSPECTIVE JUROR: No.

10 THE COURT: Think you can put aside any discussions
11 you may have had with current or former members of the
12 Los Angeles Police Department and decide this case based solely
13 on the evidence you hear here in court?

14 THE PROSPECTIVE JUROR: Yes.

15 THE COURT: Do you have any yes responses to any
16 additional questions?

17 THE PROSPECTIVE JUROR: No. All the other questions
18 is no.

19 THE COURT: I'm sorry?

20 THE PROSPECTIVE JUROR: No, I got no other --

21 THE COURT: Okay. Pass for cause as to the
22 newly-seated juror?

23 MR. FOX: Yes, Your Honor.

24 MR. STEWARD: We have an issue we'd like to discuss,
25 Your Honor, if we could.

1 THE COURT: All right.

2 (Discussion held at sidebar.)

3 MR. STEWARD: We were concerned yesterday and
4 continue to be concerned about his hearing. It appears to us
5 that he struggled at times to hear things.

6 (End of sidebar discussions.)

7 THE COURT: Sir, could you join us over here,
8 please.

9 (Discussion held at sidebar.)

10 THE COURT: I think when you were here yesterday you
11 mentioned that you may have trouble with your hearing?

12 THE PROSPECTIVE JUROR: Yes.

13 THE COURT: Okay. This is a device that might be of
14 assistance to you with your hearing. Do you want to try it?

15 THE PROSPECTIVE JUROR: Okay.

16 THE COURT: Yeah? There's a volume control right
17 there. Let me get on one of those mics.

18 THE DEPUTY CLERK: Hello. Hello.

19 THE COURT: Do you hear anything?

20 THE PROSPECTIVE JUROR: I don't hear anything yet.

21 THE COURT: Okay.

22 THE DEPUTY CLERK: Hello. Hello.

23 THE COURT: Try that.

24 THE DEPUTY CLERK: Hello. Hello.

25 THE PROSPECTIVE JUROR: Yes.

1 THE COURT: Is that good?

2 THE DEPUTY CLERK: Your Honor, that doesn't work
3 with sidebar. Should I --

4 THE COURT: That's fine.

5 Any additional --

6 MR. STEWARD: No.

7 THE COURT: All right. Sir, you can resume your
8 seat.

9 THE PROSPECTIVE JUROR: Thank you.

10 MR. FOX: May I have a moment with counsel?

11 THE COURT: Yeah.

12 (Counsel conferred off the record.)

13 MR. FOX: Your Honor, if we could just ask him
14 general questions of him when it's not at sidebar so we can
15 test it, see if he can hear.

16 THE COURT: That's fine.

17 MR. FOX: Thank you.

18 (End of sidebar discussions.)

19 THE COURT: Sir, I believe you indicated that one of
20 your relatives work for the Los Angeles Police Department; is
21 that correct?

22 THE PROSPECTIVE JUROR: It's two of my friends, yes.
23 They're retired.

24 THE COURT: Okay. And do you know what they did for
25 the Los Angeles Police Department?

1 THE PROSPECTIVE JUROR: Yes. One was a helicopter
2 sergeant in a helicopter, air patrol.

3 THE COURT: Uh-huh.

4 THE PROSPECTIVE JUROR: And the other individual
5 worked undercover in the drug enforcement.

6 THE COURT: Okay. And you had mentioned that one
7 time that you had known these people because I think either
8 they or you had played football?

9 THE PROSPECTIVE JUROR: I'm sorry, can you repeat
10 that?

11 THE COURT: Sure. I believe you'd indicated that
12 you may have met them originally because they had played
13 football or you had played football?

14 THE PROSPECTIVE JUROR: Yeah, they were my
15 teammates, and later on they went into law enforcement. And
16 one was a member of the Montreal Police Department, and he was
17 killed in a high-speed chase. And the other one worked for the
18 Toronto Police Department. He was in the fingerprint, and he
19 died unfortunately at a young age in the mid-40s of liver
20 ailment, cancer.

21 THE COURT: All right. And does that --

22 THE PROSPECTIVE JUROR: And then my wife's
23 brother-in-law's nephew's retired from the RCMP.

24 THE COURT: Okay. And is that headset working
25 better now?

1 THE PROSPECTIVE JUROR: Yes, it is very good.

2 THE COURT: Okay. Thank you.

3 All right. I believe the next peremptory rests with the
4 government.

5 MR. FOX: May I have a moment, Your Honor?

6 THE COURT: Yes.

7 (Counsel conferred off the record.)

8 MR. FOX: Your Honor, the government asks you to
9 thank and excuse Prospective Juror Number 5, please.

10 THE COURT: All right. Sir, you're excused. You
11 may return to the jury assembly room on the third floor.

12 All right. Let's call the name of another prospective
13 juror.

14 THE DEPUTY CLERK: Larry Leahy.

15 THE PROSPECTIVE JUROR: Good afternoon.

16 THE COURT: Good afternoon. Did you hear the
17 questions I asked of the other prospective jurors?

18 THE PROSPECTIVE JUROR: Yes, I did.

19 THE COURT: Is there anything that I've inquired
20 about that in good conscience you should disclose to us?

21 THE PROSPECTIVE JUROR: No, Your Honor.

22 THE COURT: Anything about the length of the trial
23 that would prevent you from serving?

24 THE PROSPECTIVE JUROR: Not as long as it didn't go
25 past three weeks, I'd be okay.

1 THE COURT: Okay. What's -- is there a date that
2 you need to be --

3 THE PROSPECTIVE JUROR: No. I'm just self-employed,
4 so it would be a bit of a burden.

5 THE COURT: Okay.

6 THE PROSPECTIVE JUROR: But I feel it's my duty to
7 serve, so --

8 THE COURT: Okay.

9 THE PROSPECTIVE JUROR: -- that's no problem.

10 THE COURT: Anything about the nature of these
11 charges that causes you to have any concern about your ability
12 to be fair and impartial to both sides?

13 THE PROSPECTIVE JUROR: No, sir.

14 THE COURT: All right. If you could take the empty
15 chair on the first row, please, and if you could take the
16 background questionnaire and tell us a little bit about
17 yourself.

18 THE PROSPECTIVE JUROR: Yeah. My name is Larry
19 Leahy, and I've lived in Santa Monica, California since 1980.
20 Before that, in New York. And I'm single, no children. Did my
21 graduate work at NYU in the film department. No military
22 experience. Currently a writer for film and a teacher
23 presently. And no immediate members in the military. Have not
24 done jury duty before.

25 THE COURT: Ever been on a criminal or civil case

1 either as a party or a witness?

2 THE PROSPECTIVE JUROR: No, Your Honor.

3 THE COURT: Have you had a chance to look at the
4 criminal case questionnaire?

5 THE PROSPECTIVE JUROR: Yes.

6 THE COURT: Do you have any yes responses to any of
7 those questions?

8 THE PROSPECTIVE JUROR: No, sir.

9 THE COURT: All right. Thank you very much.

10 Ladies and gentlemen, we're going to take our break for
11 lunch now. Again, I want to remind you until this trial is
12 over you're not to discuss this case with anyone, including
13 your fellow jurors, members of your family, people involved in
14 the trial or anyone else, nor are you allowed to permit others
15 to discuss the case with you. If anybody approaches you and
16 tries to talk with you about this case, please let me know
17 about it immediately.

18 Do not read or listen to any news reports or articles
19 about the case or about anyone who has anything to do with it.
20 Do not do any research such as consulting dictionaries,
21 searching the Internet, using other reference materials, and do
22 not make any investigation about the case on your own. If you
23 need to speak with me, simply give a note to the clerk.

24 We're going to resume at 1:30. There are a number of
25 places to eat. There are a couple of sandwich shops directly

1 across the street. There is a farmers' market to the right
2 about two blocks down off of Main Street. There's Mexican food
3 two blocks to the right, Chinese food three blocks further. So
4 have a good lunch. And there's a cafeteria on the fourth
5 floor, but I am not vouching for it.

6 All right. We'll see everybody -- let's be back here
7 at -- let's make it 1:25. All right. Thank you.

8 (The prospective jurors exited the courtroom.)

9 THE COURT: All right. Is there anything else we
10 need to take up?

11 MR. FOX: No, Your Honor. Thank you.

12 MR. STEWARD: No, Your Honor.

13 THE COURT: Okay. We'll see everybody about 1:25.

14 (Off the record at 12:17 p.m.)

15 (On the record at 1:28 p.m.)

16 THE COURT: All right. Welcome back, and we're
17 going to resume with jury selection.

18 I believe we had heard from Prospective Juror Number 5.

19 Pass for cause as to the newly-seated juror?

20 MR. FOX: Yes, Your Honor.

21 MR. STEWARD: Yes, Your Honor.

22 THE COURT: All right. I believe the next
23 peremptory rests with the defense.

24 MR. STEWARD: And, Your Honor, we'd ask the Court --
25 we have consulted with counsel, and we'd ask the Court to thank

1 and excuse Juror Number 11, Ms. Burns.

2 THE COURT: All right. You're excused. You may
3 return to the jury assembly room on the third floor. Thank you
4 very much for your service.

5 I'm going to ask the clerk to call the name of another
6 prospective juror.

7 THE DEPUTY CLERK: Won Chang.

8 THE COURT: Good afternoon.

9 THE PROSPECTIVE JUROR: Good afternoon.

10 THE COURT: Did you hear the questions I asked of
11 the other prospective jurors?

12 THE PROSPECTIVE JUROR: No, sir.

13 THE COURT: Why don't you come over here.

14 (Discussion held at sidebar.)

15 THE COURT: Were you here yesterday?

16 THE PROSPECTIVE JUROR: Oh, yes, sir.

17 THE COURT: Okay. And did you hear the questions
18 that I asked earlier?

19 THE PROSPECTIVE JUROR: Oh, yes. I'm sorry. I do
20 remember asking if I've been -- if I would have any issues.

21 THE COURT: That's okay.

22 THE PROSPECTIVE JUROR: But yes, I heard your
23 questions.

24 THE COURT: Okay. Is there anything about the
25 nature of these charges that causes you to have any concerns

1 about your ability to be fair and impartial to both sides?

2 THE PROSPECTIVE JUROR: No, sir.

3 THE COURT: Anything about the length of the trial
4 that would prevent you from serving?

5 THE PROSPECTIVE JUROR: Nope.

6 THE COURT: Okay. Why don't you take that open
7 chair on the second row.

8 THE PROSPECTIVE JUROR: Okay.

9 THE COURT: All right. Thank you.

10 (End of sidebar discussions.)

11 THE COURT: Sir, if you could take the background
12 questionnaire and tell us a little bit about yourself.

13 THE PROSPECTIVE JUROR: My name is Won Chang. Right
14 now I live in Venice, which is nearby Santa Monica. I recently
15 moved there three weeks ago. Prior to that, I lived in
16 Northridge since 1999. And currently I'm single, no children.
17 My education is bachelor of science in civil engineering and
18 master of science in computer science.

19 THE COURT: And where'd you go to school?

20 THE PROSPECTIVE JUROR: For bachelor's I went to
21 UC Berkeley. For master's I went to CSUN, which is CSU
22 Northridge.

23 THE COURT: Ever served in the military?

24 THE PROSPECTIVE JUROR: No, sir.

25 THE COURT: And what do you do for a living?

1 THE PROSPECTIVE JUROR: Currently I'm working at
2 Rockwell Collins working as a software engineer.

3 THE COURT: And how long have you been there?

4 THE PROSPECTIVE JUROR: I worked there six months as
5 a contractor, and I became a full-time on last month.

6 THE COURT: Okay. And where did you work prior to
7 that?

8 THE PROSPECTIVE JUROR: Prior to that I was just
9 student.

10 THE COURT: Okay. Ever taken any courses in
11 criminal justice?

12 THE PROSPECTIVE JUROR: No.

13 THE COURT: And I'm sorry, are you married?

14 THE PROSPECTIVE JUROR: No, I'm single.

15 THE COURT: Ever served on a jury before?

16 THE PROSPECTIVE JUROR: This is my first time.

17 THE COURT: You ever been a party or a witness in a
18 civil or criminal case?

19 THE PROSPECTIVE JUROR: No, sir.

20 THE COURT: Okay. Have you had a chance to look at
21 the criminal case questionnaire?

22 THE PROSPECTIVE JUROR: Yes, and actually I have
23 three questions that would apply to me.

24 THE COURT: Okay.

25 THE PROSPECTIVE JUROR: First is Question Number 1,

1 my brother, younger brother, he was arrested for DUI.

2 THE COURT: When was that?

3 THE PROSPECTIVE JUROR: I believe it was sometime in
4 2013. I'm not sure exactly which month.

5 THE COURT: Okay. And do you recall what police
6 agency was involved?

7 THE PROSPECTIVE JUROR: I'm not 100 percent sure,
8 but I believe it was Sheriff's Department.

9 THE COURT: Okay. Do you know what city that
10 occurred in?

11 THE PROSPECTIVE JUROR: It was Los Angeles.

12 THE COURT: Is there anything about the way that
13 that case was handled that causes you to have concerns about
14 your ability to be fair and impartial to both sides in this
15 case?

16 THE PROSPECTIVE JUROR: No.

17 THE COURT: Can you put that aside, your brother's
18 arrest, and decide this case based solely on the evidence you
19 hear here in court?

20 THE PROSPECTIVE JUROR: Yes, sir.

21 THE COURT: Okay. Any other affirmative answers to
22 any of the other questions?

23 THE PROSPECTIVE JUROR: There were two other
24 questions, Number 22 and 25. Number 22 was regarding if anyone
25 was having been -- that I knew been to Los Angeles County jail.

1 That would be my younger brother when he was arrested for DUI.

2 THE COURT: And how long was your brother
3 incarcerated in the county jail?

4 THE PROSPECTIVE JUROR: It was just one night.

5 THE COURT: Anything about that experience that
6 causes you to have any concerns about your ability to be fair
7 and impartial to both sides in this case?

8 THE PROSPECTIVE JUROR: No.

9 THE COURT: And did you say Question 25?

10 THE PROSPECTIVE JUROR: 25. So close friend of mine
11 is in Army reserve right now, and my younger brother is
12 actually impending him joining Army.

13 THE COURT: What does your brother do for a living?

14 THE PROSPECTIVE JUROR: He used to be contractor
15 manager, I believe -- oh, construction manager, I'm sorry.

16 THE COURT: Okay.

17 THE PROSPECTIVE JUROR: After DUI he had to quit his
18 job, and after that he's been trying to join Army. But there's
19 been some delays, and he's been unemployed for, I believe, two
20 years now.

21 THE COURT: Any other affirmative responses to any
22 of the other questions?

23 THE PROSPECTIVE JUROR: No, sir.

24 THE COURT: Thank you.

25 Pass for cause as to the newly-seated juror?

1 MR. FOX: Yes, Your Honor.

2 MR. STEWARD: Yes, Your Honor.

3 THE COURT: Either party wish to have any additional
4 questions asked of the newly-seated juror?

5 MR. FOX: Not from the government, Your Honor.

6 MR. STEWARD: No, Your Honor. Thank you.

7 THE COURT: All right. I believe the next
8 peremptory rests with the defense.

9 MR. STEWARD: Could I have just one moment, Your
10 Honor?

11 THE COURT: Yes.

12 (Defense counsel conferred off the record.)

13 MR. STEWARD: Thank you, Your Honor. We ask the
14 Court to thank and excuse Juror Number --

15 THE COURT: Have you conferred with the other side?

16 MR. STEWARD: Oh, I'm sorry. My apologies.

17 (Counsel conferred off the record.)

18 MR. STEWARD: I have now, Your Honor. We'd ask the
19 Court to thank and excuse Juror Number 8, Mr. Leahy.

20 THE COURT: All right. Sir, you're excused. You
21 may return to the jury assembly room on the third floor.

22 THE PROSPECTIVE JUROR: Your Honor, do I still stay
23 here, or am I done?

24 THE COURT: No, you're going to go up to the third
25 floor in the jury assembly room and just tell them you've been

1 excused.

2 THE PROSPECTIVE JUROR: Okay. Thank you.

3 THE COURT: Thank you.

4 All right. I'm going to ask the clerk to call the name of
5 another prospective juror.

6 THE DEPUTY CLERK: Katrina Bulanek.

7 THE COURT: Did you hear the questions I asked of
8 the other prospective jurors?

9 THE PROSPECTIVE JUROR: Yes.

10 THE COURT: Is there anything that I've inquired
11 about that in good conscience you should disclose to us?

12 THE PROSPECTIVE JUROR: No.

13 THE COURT: Anything about the length of the trial
14 that would prevent you from serving?

15 THE PROSPECTIVE JUROR: No.

16 THE COURT: Anything about the nature of these
17 charges that causes you to have concerns about your ability to
18 be fair and impartial to both sides?

19 THE PROSPECTIVE JUROR: No.

20 THE COURT: All right. If you could take the empty
21 chair on the second row, please, and if you could take the
22 background questionnaire and tell us a little bit about
23 yourself.

24 THE PROSPECTIVE JUROR: My name is Katrina Bulanek.
25 I live in Bellflower. I've lived there about five years.

1 Before moving there, I lived in Oklahoma. I'm married. I have
2 two children, 14 and 8. I have an associate's degree in
3 business administration. No military service. I am currently
4 a management coordinator and expediter for Mayekawa. My
5 husband is a claims adjuster for Progressive and --

6 THE COURT: Ever taken any coursework in criminal
7 justice or any attended any seminars?

8 THE PROSPECTIVE JUROR: No, I haven't.

9 THE COURT: Ever been on a jury before?

10 THE PROSPECTIVE JUROR: No, I haven't.

11 THE COURT: Ever been a party or a witness in a
12 civil or criminal case?

13 THE PROSPECTIVE JUROR: No.

14 THE COURT: Have you had a chance to look at the
15 criminal case questionnaire?

16 THE PROSPECTIVE JUROR: Yes, I have.

17 THE COURT: Do you have any yes or affirmative
18 answers to any of those questions?

19 THE PROSPECTIVE JUROR: Yes, I do.

20 THE COURT: Okay. Which ones?

21 THE PROSPECTIVE JUROR: Number 2, I've had my home
22 broken into.

23 THE COURT: Okay. When was that?

24 THE PROSPECTIVE JUROR: 12 years ago.

25 THE COURT: Anything about that experience that

1 causes you to have any concerns about your ability to be fair
2 and impartial to both sides?

3 THE PROSPECTIVE JUROR: No.

4 THE COURT: Any other affirmative responses to any
5 of the other questions?

6 THE PROSPECTIVE JUROR: Yes.

7 THE COURT: Which ones?

8 THE PROSPECTIVE JUROR: Number 4.

9 THE COURT: Okay.

10 THE PROSPECTIVE JUROR: My father-in-law is a
11 retired U.S. Marshal, and he worked in the court systems here
12 in L.A.

13 THE COURT: You ever talk to him about the work that
14 he did?

15 THE PROSPECTIVE JUROR: Only for him to tell funny
16 stories, but nothing serious in nature.

17 THE COURT: Okay. Can you put aside that
18 relationship and judge the credibility of a law enforcement
19 officer in the same way you would that of any other witness?

20 THE PROSPECTIVE JUROR: Yes.

21 THE COURT: Any other affirmative responses to any
22 of the other questions?

23 THE PROSPECTIVE JUROR: Yes, I have -- I'm not sure
24 which number it is. My brother-in-law is a lieutenant deputy
25 sheriff with Orange County.

1 THE COURT: Do you know what kind of work he does?

2 THE PROSPECTIVE JUROR: I have no idea. He doesn't
3 talk about his job with me.

4 THE COURT: Okay. When was your father-in-law --
5 when was he employed by the U.S. Marshals Service?

6 THE PROSPECTIVE JUROR: I honestly don't know. He
7 was well past retired when I met him.

8 THE COURT: Okay.

9 THE PROSPECTIVE JUROR: And I met him in '97, so...

10 THE COURT: Okay. Any other affirmative responses
11 to any of the other questions?

12 THE PROSPECTIVE JUROR: No, Your Honor.

13 THE COURT: All right. Thank you so much.

14 Pass for cause as to the newly-seated juror?

15 MR. FOX: Yes, Your Honor.

16 MR. STEWARD: Yes, Your Honor.

17 MR. HAIG: Your Honor, there's a juror that just
18 raised their hand.

19 THE PROSPECTIVE JUROR: I just wanted to mention --
20 make an addition as to Question Number 2, I did have my house
21 broken into twice.

22 THE COURT: Okay.

23 THE PROSPECTIVE JUROR: So just wanted to add that.

24 THE COURT: All right. Anything about that
25 experience that causes you to have any concerns about your

1 ability to be fair and impartial?

2 THE PROSPECTIVE JUROR: No.

3 THE COURT: All right.

4 MR. FOX: I have one follow-up question, though, for
5 Prospective Juror Number 8 if -- I think I could probably here
6 unless you want to go to sidebar, Your Honor. It's up to you.

7 THE COURT: Okay. What is it?

8 MR. FOX: I just don't know what a management
9 coordinator is, and I was hoping she could tell us about her
10 job.

11 THE COURT: Tell us a little bit about what a
12 management coordinator does.

13 THE PROSPECTIVE JUROR: I basically make sure that
14 all of the men above me do their jobs.

15 THE COURT: And I'm sure that's a full-time job.

16 THE PROSPECTIVE JUROR: Yes. I have to -- I have a
17 meeting with them once a week and make sure that they're all in
18 line with what they're doing and so they're all communicating
19 with each other.

20 THE COURT: Okay. And I'm sorry, the company you
21 work at?

22 THE PROSPECTIVE JUROR: Mayekawa.

23 THE COURT: Anything else?

24 MR. FOX: No, Your Honor. Thank you.

25 THE COURT: All right. I believe the next

1 peremptory rests with the government.

2 MR. FOX: One moment, Your Honor.

3 (Counsel conferred off the record.)

4 MR. FOX: Your Honor, the government asks you to
5 thank and excuse Prospective Juror Number 12.

6 THE COURT: All right. You're excused. You may
7 return to the jury assembly room on the third floor.

8 All right. I'm going to ask the clerk to call the name of
9 another prospective juror.

10 THE DEPUTY CLERK: Mary Beth Salter.

11 THE COURT: Good afternoon. Did you hear the
12 questions I asked of the other prospective jurors?

13 THE PROSPECTIVE JUROR: I did.

14 THE COURT: Is there anything that I've inquired
15 about that in good conscience you should disclose to us?

16 THE PROSPECTIVE JUROR: No.

17 THE COURT: Anything about the length of the trial
18 that would prevent you from serving?

19 THE PROSPECTIVE JUROR: I think if it went over
20 three weeks and I had some travel that came up, I could get it
21 covered by a colleague.

22 THE COURT: Okay. Anything about the nature of
23 these charges that causes you to have any concerns about your
24 ability to be fair and impartial to both sides?

25 THE PROSPECTIVE JUROR: No.

1 THE COURT: All right. If you could take the empty
2 chair on the second row. If you could take the background
3 questionnaire and tell us a little bit about yourself.

4 THE PROSPECTIVE JUROR: My name is Mary Beth, and I
5 live in Pasadena. I've been there about 20 years. Before
6 that, I lived in Covina. I'm single without kids. I have a
7 business degree from Cal State Fullerton. No military service.
8 I work for Deloitte & Touche, and I'm a meeting and event
9 planner there. No prior jury service. And no military.

10 THE COURT: Ever taken any courses or attended any
11 seminars in criminal law or criminal justice?

12 THE PROSPECTIVE JUROR: No.

13 THE COURT: Ever been a party or a witness in a
14 civil or criminal case?

15 THE PROSPECTIVE JUROR: No, I haven't.

16 THE COURT: Okay. And you put on parties? You're
17 an event planner?

18 THE PROSPECTIVE JUROR: Corporate meetings, special
19 events.

20 THE COURT: Oh, okay.

21 THE PROSPECTIVE JUROR: Parties too sometimes.

22 THE COURT: Have you had a chance to look at the
23 criminal case questionnaire?

24 THE PROSPECTIVE JUROR: Yes, I have.

25 THE COURT: Do you have any yes responses to any of

1 those questions?

2 THE PROSPECTIVE JUROR: No, I don't.

3 THE COURT: Pass for cause as to the newly-seated
4 juror?

5 MR. FOX: Yes, Your Honor.

6 MR. STEWARD: Yes, Your Honor.

7 THE COURT: Any additional questions for the
8 newly-seated juror?

9 MR. FOX: No, Your Honor.

10 MR. STEWARD: No, Your Honor.

11 THE COURT: All right. I believe the next
12 peremptory rests with the defense.

13 (Defense counsel conferred off the record.)

14 (Counsel conferred off the record.)

15 MR. STEWARD: And, Your Honor, we'd ask the Court to
16 thank and excuse Juror Number 10, Ms. Wang.

17 THE COURT: All right. You're excused. You may
18 return to the jury assembly room on the third floor. Thank you
19 very much --

20 THE PROSPECTIVE JUROR: Thank you.

21 THE COURT: -- for your service.

22 All right. I'm going to ask the clerk to call the name of
23 another prospective juror.

24 THE DEPUTY CLERK: Mark Nolan.

25 THE COURT: Did you hear the questions I asked of

1 the other prospective jurors?

2 THE PROSPECTIVE JUROR: Yes, Your Honor.

3 THE COURT: Is there anything that I've inquired
4 about that in good conscience you should disclose to us?

5 THE PROSPECTIVE JUROR: No, sir.

6 THE COURT: Anything about the length of the trial
7 that would prevent you from serving?

8 THE PROSPECTIVE JUROR: No, sir.

9 THE COURT: Anything about the nature of these
10 charges that causes you to have any concerns about your ability
11 to be fair and impartial to both sides?

12 THE PROSPECTIVE JUROR: No, sir.

13 THE COURT: All right. If you'd take the empty
14 chair on the second row, please. Okay. If you could take the
15 background questionnaire and tell us a little bit about
16 yourself.

17 THE PROSPECTIVE JUROR: My name's Mark Nolan. I
18 live in Ventura. I've lived there for 11 years. Prior to
19 that, I was living in Tustin. I'm divorced, no children.
20 Completed two years of college. No military service. My
21 occupation, I'm a regional sales manager. I handle from
22 Colorado to Hawaii for my company.

23 THE COURT: And what's the name of the company?

24 THE PROSPECTIVE JUROR: It's Calavo Growers of
25 California.

1 THE COURT: And what did your spouse do for a living
2 prior to your divorce?

3 THE PROSPECTIVE JUROR: An advocate for the
4 hearing-impaired.

5 THE COURT: Ever taken any coursework or attended
6 any seminars in criminal justice?

7 THE PROSPECTIVE JUROR: Not in criminal law, no.

8 THE COURT: Okay. Any legal training?

9 THE PROSPECTIVE JUROR: No.

10 THE COURT: Any prior jury service?

11 THE PROSPECTIVE JUROR: Yes, a civil trial about 30
12 years ago.

13 THE COURT: Do you recall what it was about?

14 THE PROSPECTIVE JUROR: Personal injury.

15 THE COURT: Was the jury able to return a verdict?

16 THE PROSPECTIVE JUROR: Yes, they were.

17 THE COURT: Ever been a party or a witness in a
18 civil or criminal case?

19 THE PROSPECTIVE JUROR: I have not.

20 THE COURT: Any other jury service?

21 THE PROSPECTIVE JUROR: That was it.

22 THE COURT: Have you had a chance to look at the
23 criminal case questionnaire?

24 THE PROSPECTIVE JUROR: I did.

25 THE COURT: And do you have any yes responses to any

1 of those questions?

2 THE PROSPECTIVE JUROR: Yes to item 2.

3 THE COURT: Okay.

4 THE PROSPECTIVE JUROR: My brother's wife was
5 murdered about 30 years ago.

6 THE COURT: What city did that event take place?

7 THE PROSPECTIVE JUROR: San Jose, California.

8 THE COURT: Anything about that experience that
9 causes you to have any concerns about your ability to be fair
10 and impartial to both sides in this case?

11 THE PROSPECTIVE JUROR: Oh, I would say it ran its
12 course as it seemed that it should.

13 THE COURT: Any other yes or affirmative answers to
14 any of the other questions?

15 THE PROSPECTIVE JUROR: No, Your Honor.

16 THE COURT: Thank you. Pass for cause as to the
17 newly-seated juror?

18 MR. FOX: Yes, Your Honor.

19 MR. STEWARD: Yes, Your Honor.

20 THE COURT: Any additional questions for the
21 newly-seated juror?

22 MR. FOX: One moment, Your Honor.

23 Nothing from the government, Your Honor.

24 MR. STEWARD: Nothing from the defense, Your Honor.

25 THE COURT: All right. I believe the next

1 peremptory rests with the defense.

2 MR. STEWARD: May we have just a moment, Your Honor?

3 THE COURT: Yes.

4 (Defense counsel conferred off the record.)

5 (Counsel conferred off the record.)

6 MR. STEWARD: And, Your Honor, we'd ask the Court to
7 thank and excuse Juror Number 1, Mr. Munoz.

8 THE COURT: All right. Sir, you're excused. You
9 may return to the jury assembly room on the third floor.

10 All right. I'm going to ask the clerk to call the name of
11 another prospective juror.

12 THE DEPUTY CLERK: Yuri Kononenko.

13 THE COURT: Did you hear the questions I asked of
14 the other prospective jurors?

15 THE PROSPECTIVE JUROR: Yes, sir.

16 THE COURT: Is there anything about the nature of
17 these charges that causes you to have any concerns about your
18 ability to be fair and impartial to both sides?

19 THE PROSPECTIVE JUROR: No.

20 THE COURT: Anything about the length of the trial
21 that would prevent you from serving?

22 THE PROSPECTIVE JUROR: However, it's three weeks, I
23 can do it, you know, because I'm self-employed. Longer than
24 three weeks, it's too tough.

25 THE COURT: Okay. Could you take that empty chair

1 on the first row, please, and if you could take the background
2 questionnaire and tell us a little bit about yourself.

3 THE PROSPECTIVE JUROR: Okay. My name is Yuri
4 Konenenko. I live in Hollywood.

5 THE COURT: Okay. Do you have a microphone?

6 THE PROSPECTIVE JUROR: My name is Yuri Konenenko.
7 Is that all right? Okay. My name is Yuri Konenenko. I live
8 in Hollywood since 1980s. And I'm married, no children. I
9 have a college education. No military service. Now I'm
10 self-employed.

11 THE COURT: Okay. And what do you do?

12 THE PROSPECTIVE JUROR: I have a website which I
13 maintain, and I play poker regularly.

14 THE COURT: Okay.

15 THE PROSPECTIVE JUROR: And --

16 THE COURT: What does your wife do for a living?

17 THE PROSPECTIVE JUROR: She's a manager in a
18 supermarket.

19 THE COURT: And which market does she work for?

20 THE PROSPECTIVE JUROR: Ralphs supermarket.

21 I served once on civil case.

22 THE COURT: Okay. And when was that?

23 THE PROSPECTIVE JUROR: It was maybe eight years
24 ago.

25 THE COURT: Do you recall generally what the case

1 was about?

2 THE PROSPECTIVE JUROR: It was regarding
3 mesothelioma case, yeah.

4 THE COURT: Was the jury able to reach a verdict?

5 THE PROSPECTIVE JUROR: Yes.

6 THE COURT: Ever been a party or a witness in a
7 civil or criminal case?

8 THE PROSPECTIVE JUROR: No.

9 THE COURT: Ever taken any coursework in criminal
10 law or criminal justice?

11 THE PROSPECTIVE JUROR: No.

12 THE COURT: Have you had a chance to look at the
13 criminal case questionnaire?

14 THE PROSPECTIVE JUROR: Yes.

15 THE COURT: Do you have any yes or affirmative
16 answers to any of those questions?

17 THE PROSPECTIVE JUROR: I have yes to Question --
18 let me see. Okay, Question Number 1, I was arrested one time.

19 THE COURT: And when was that?

20 THE PROSPECTIVE JUROR: It was like more than 20
21 years ago.

22 THE COURT: And do you know what police agency was
23 involved?

24 THE PROSPECTIVE JUROR: The Los Angeles Police
25 Department.

1 THE COURT: And was -- do you have any -- do you
2 have any dissatisfaction about the way that case was handled by
3 the Los Angeles Police Department?

4 THE PROSPECTIVE JUROR: Yes.

5 THE COURT: Okay. Could you join us over here for a
6 moment, please.

7 (Discussion held at sidebar.)

8 THE COURT: Okay. What were you arrested for?

9 THE PROSPECTIVE JUROR: I don't know. It was false
10 arrest.

11 THE COURT: Okay.

12 THE PROSPECTIVE JUROR: It was -- what happened was
13 I was working as security guard, and one night I was driving
14 from my post to my home. I got stopped. They searched me.
15 They saw a gun in my house. They arrested me. I told them I
16 have a uniform, security guard license. They still arrested
17 me, put me in the police station. I spent the night there.

18 And the next day they took me to county jail. I stayed
19 there like six or seven hours. Then my number was called out,
20 and the gentleman asked me what happened to me. I said I don't
21 know. I told him the story, and he just said let me go, and
22 that's it. So I was never put in front of a judge. It was
23 false arrest 100 percent.

24 THE COURT: Okay. Now, there may be law enforcement
25 officers that may testify as witnesses in this case. Can you

1 put aside that experience of having been arrested and be fair
2 and impartial to both sides in this case?

3 THE PROSPECTIVE JUROR: Yeah, I think so.

4 THE COURT: Okay. Any doubt in your mind?

5 THE PROSPECTIVE JUROR: No.

6 THE COURT: Okay. Can you judge the credibility of
7 a law enforcement officer the same way you would that of any
8 other witness?

9 THE PROSPECTIVE JUROR: Yeah.

10 THE COURT: Okay. You'd indicated that you're
11 self-employed and you play poker. Do you play poker for a
12 living?

13 THE PROSPECTIVE JUROR: Yeah, I guess so.

14 THE COURT: And how long have you been doing that?

15 THE PROSPECTIVE JUROR: A long time.

16 THE COURT: Okay. Any other yes responses to any of
17 the other questions?

18 THE PROSPECTIVE JUROR: No, I don't see anything.

19 THE COURT: Okay. You want to take a look?

20 THE PROSPECTIVE JUROR: Take a look?

21 THE COURT: Just want to make sure that you don't
22 have any other answers here.

23 (Pause in proceedings.)

24 THE PROSPECTIVE JUROR: No. My wife makes donations
25 to police officers.

1 THE COURT: Okay.

2 THE PROSPECTIVE JUROR: But that's about it.

3 (Pause in proceedings.)

4 THE PROSPECTIVE JUROR: No, I don't see no problems.

5 THE COURT: Okay. Do you know what agency she makes
6 donations to, what police --

7 THE PROSPECTIVE JUROR: I have no idea.

8 THE COURT: Okay. When you were taken over to
9 county jail, how much time did you spend there?

10 THE PROSPECTIVE JUROR: About -- I was taken by a
11 bus early in the morning, so probably 2:00, 3:00 p.m., 4:00
12 p.m.

13 THE COURT: Did you have any complaints about the
14 way you were treated when you were over at the county jail?

15 THE PROSPECTIVE JUROR: In that county, I was -- I
16 didn't feel comfortable. I was in my uniform, you know. 500
17 people were -- that's about it, yeah.

18 THE COURT: Okay. So there was nothing -- I
19 understand it wasn't the most pleasant experience, but you
20 didn't have any complaints about any of the personnel in the
21 jails?

22 THE PROSPECTIVE JUROR: No, not the -- the personnel
23 was rough, you know, but they were screaming and this
24 provocation, what am I supposed to do.

25 THE COURT: Okay. Think you can put that aside and

1 be fair and impartial to both sides in this case?

2 THE PROSPECTIVE JUROR: Yes.

3 THE COURT: Any doubt in your mind?

4 THE PROSPECTIVE JUROR: Don't know.

5 THE COURT: Okay. So can you commit to being fair
6 and impartial to both sides in this case?

7 THE PROSPECTIVE JUROR: Yes, I'll do my best.

8 THE COURT: Okay. Okay. Can you have a seat right
9 there?

10 MR. FOX: Your Honor, we would -- we thought we
11 heard him say he runs a website. Maybe we'd like to know what
12 that website is and what it's about.

13 MR. STEWARD: I thought that was his poker, but an
14 explanation would be nice.

15 THE COURT: All right.

16 You'd indicated earlier that you ran a website.

17 THE PROSPECTIVE JUROR: Uh-huh.

18 THE COURT: What's the website about?

19 THE PROSPECTIVE JUROR: It's information about
20 gambling, different strategies to play different, you know,
21 games.

22 THE COURT: Different games like poker?

23 THE PROSPECTIVE JUROR: Blackjack, poker, lots of
24 other things, you know, baccarat, everything.

25 THE COURT: I could have used that a couple weeks

1 ago.

2 Okay. Have a seat right there. I'll be right back.

3 Anything else?

4 MR. FOX: No follow-up from the government.

5 MR. STEWARD: No follow-up for the defense.

6 THE COURT: Pass for cause?

7 MR. FOX: Yes, Your Honor.

8 MR. STEWARD: Yes, Your Honor.

9 THE COURT: Okay. All right. Sir, if you'd resume
10 your seat.

11 (End of sidebar discussions.)

12 THE COURT: All right. I believe the next
13 peremptory rests with the government.

14 MR. FOX: May we have a moment with counsel?

15 THE COURT: Yes.

16 (Counsel conferred off the record.)

17 MR. FOX: Your Honor, the government asks you to
18 thank and excuse Prospective Juror Number 1, please.

19 THE COURT: All right. Sir, you're excused. You
20 may return to the jury assembly room on the third floor. Thank
21 you very much for your service.

22 THE PROSPECTIVE JUROR: Your Honor, I need to talk
23 to you guys.

24 THE COURT: Okay.

25 THE PROSPECTIVE JUROR: Something happened at lunch

1 I need to tell you about.

2 THE COURT: All right.

3 (Discussion held at sidebar.)

4 MR. JAUREGUI: Your Honor, we hear there's a
5 gentleman in the first row all the way to the left, first
6 person, he raised his hand trying to get your attention.

7 THE COURT: Okay. Thank you.

8 THE PROSPECTIVE JUROR: Nothing bad happened. So
9 part of -- one of my positions at UCLA was working in the
10 registrar/student affairs office in the school of law. And at
11 lunch, as I was leaving the building, I saw two of my former
12 students walking the halls. They didn't see me. I didn't
13 approach them. I didn't do anything, but I just felt like you
14 should know that.

15 THE COURT: Okay. That's fine. Those Bruins are
16 just --

17 THE PROSPECTIVE JUROR: They're everywhere. I mean,
18 it doesn't affect my -- I have no bias, nothing, but just
19 thought you should know.

20 THE COURT: Okay. That's fine. Thank you.

21 THE PROSPECTIVE JUROR: Uh-huh.

22 (End of sidebar discussions.)

23 THE COURT: I believe somebody had their hand up.

24 THE PROSPECTIVE JUROR: Yes, I just want to get 30
25 seconds to go to the restroom. I drank too much.

1 THE COURT: That's fine.

2 THE PROSPECTIVE JUROR: Is that okay?

3 THE COURT: Yeah, that's fine.

4 THE PROSPECTIVE JUROR: Thank you.

5 THE COURT: Okay.

6 (Pause in proceedings.)

7 (Discussion held at sidebar.)

8 THE COURT: Anything else? Okay.

9 (End of sidebar discussions.)

10 THE COURT: I think he did say 30 seconds.

11 Okay. While we're waiting, I think we'll go ahead and
12 call the name of another prospective juror.

13 Okay. How many of you want to bet that the next name we
14 call is the guy who just left.

15 THE DEPUTY CLERK: Gregory Weller.

16 THE COURT: Close. Sir, did you hear the questions
17 I asked of the other prospective jurors?

18 THE PROSPECTIVE JUROR: Yes, sir.

19 THE COURT: Is there anything that I've inquired
20 about that in good conscience you should disclose to us?

21 THE PROSPECTIVE JUROR: No, sir.

22 THE COURT: Anything about the length of the trial
23 that would prevent you from serving?

24 THE PROSPECTIVE JUROR: No, sir.

25 THE COURT: Anything about the nature of these

1 charges that causes you to have any concerns about your ability
2 to be fair and impartial to both sides?

3 THE PROSPECTIVE JUROR: No, sir.

4 THE COURT: All right. If you could take the empty
5 chair on the first row, and if you could take the background
6 questionnaire and tell us a little bit about yourself.

7 THE PROSPECTIVE JUROR: My name is Greg Weller. I
8 live in Santa Clarita, California. I've lived there all my
9 life, but I spent about two years in Oklahoma, and that was
10 about seven months ago. I am single, no children. I have an
11 associate's degree in engineering. I've never been in the
12 military. I work for AmerisourceBergen, a pharmaceutical
13 distribution company.

14 THE COURT: Ever taken any courses in criminal
15 justice?

16 THE PROSPECTIVE JUROR: No, I have not.

17 THE COURT: Ever served on a jury before?

18 THE PROSPECTIVE JUROR: No, I have not, sir.

19 THE COURT: Ever been a party or a witness in a
20 civil or criminal case?

21 THE PROSPECTIVE JUROR: I had a Workman's Comp
22 lawsuit, but I had nothing to do with it. I was connected to
23 the lawyer and got a check.

24 THE COURT: Anything about that experience that
25 causes you to have any concerns about your ability to be fair

1 and impartial to both sides in this case?

2 THE PROSPECTIVE JUROR: No. I just contacted the
3 lawyer, and he sent me a check. It was great.

4 THE COURT: Okay. You got money out of a lawyer?
5 That's --

6 THE PROSPECTIVE JUROR: He got 20 percent out of it.
7 I mean...

8 THE COURT: Have you had a chance to look at the
9 criminal case questionnaire?

10 THE PROSPECTIVE JUROR: Yes, I have. I don't have
11 one on me, though.

12 Thank you.

13 THE COURT: Do you have any yes responses to any of
14 those questions?

15 THE PROSPECTIVE JUROR: Number 4, I have -- a
16 friend's mom, she is a secretary at a law firm. I don't know
17 what law firm, and I don't really talk to her about her work at
18 all.

19 THE COURT: Okay. Any other yes or affirmative
20 answers to any of the other questions?

21 THE PROSPECTIVE JUROR: Number 25, I enlisted into
22 the military, but I soon after dropped my enlistment.

23 THE COURT: Anything else?

24 THE PROSPECTIVE JUROR: No, that's it, sir.

25 THE COURT: All right. Pass for cause as to the

1 newly-seated juror?

2 MR. FOX: Yes, Your Honor.

3 MR. STEWARD: Yes, Your Honor.

4 THE COURT: Any additional questions for the
5 newly-seated juror?

6 MR. FOX: Not from the government, Your Honor.

7 MR. STEWARD: Not from the defense, Your Honor.

8 THE COURT: All right. I believe the next
9 peremptory rests with the defense.

10 (Defense counsel conferred off the record.)

11 (Counsel conferred off the record.)

12 MR. STEWARD: Your Honor, we would ask the Court to
13 thank and excuse Juror Number 8, Ms. Bulanek.

14 THE COURT: All right. You're excused. You may
15 return to the jury assembly room on the third floor.

16 All right. I'm going to ask the clerk to call the name of
17 another prospective juror.

18 THE DEPUTY CLERK: Dayle Campbell.

19 THE COURT: Did you hear the questions I asked of
20 the other prospective jurors?

21 THE PROSPECTIVE JUROR: Yes.

22 THE COURT: Is there anything that I've inquired
23 about that in good conscience you should disclose to us?

24 THE PROSPECTIVE JUROR: Yes, some items, but I can
25 disclose that later. But everything's okay right now.

1 THE COURT: All right. Anything about the nature of
2 these charges that causes you to have any concerns about your
3 ability to be fair and impartial to both sides?

4 THE PROSPECTIVE JUROR: Yes, sir.

5 THE COURT: Okay. If you could join us over here.

6 (Discussion held at sidebar.)

7 THE COURT: Okay. If you could stand next to this
8 microphone, and if you could keep your voice down.

9 THE PROSPECTIVE JUROR: Yes, sir.

10 THE COURT: What is it about the nature of the
11 charges that causes you to have concerns?

12 THE PROSPECTIVE JUROR: Okay. So that would be
13 items number 3, 6, 7, 22 and 24, and that's in regards to my
14 son.

15 THE COURT: Okay. Hold on one second.

16 Okay. Is there anything about the length of the trial
17 that would prevent you from serving?

18 THE PROSPECTIVE JUROR: Perhaps, yes.

19 THE COURT: Okay. What's that?

20 THE PROSPECTIVE JUROR: Okay. My son is on SSI, and
21 I have to provide work for myself so I can help him out, and
22 this has to do with these items.

23 THE COURT: Okay. Hold on one second.

24 THE PROSPECTIVE JUROR: Okay.

25 THE COURT: Okay. Let's start with Number 3.

1 THE PROSPECTIVE JUROR: Yes, sir. Okay. My son was
2 a professional baseball player. He got drafted fifth round by
3 the Detroit Tigers, and he was riding in L.A. And it was a law
4 enforcement agency that stopped him, threw him on the ground,
5 took him to jail. After that, they took him to UCLA Medical
6 Center psych ward and shot him up with drugs, and he had a bad
7 allergic reaction. And he -- right now he itches and he
8 scratches. That's why he's on SSI. His career was ruined,
9 okay.

10 So I'm just -- okay. I'm just trying to help him out as
11 much as possible, okay. And I don't like the way he was
12 treated. I got to be fair with you. I don't.

13 THE COURT: Okay. What police agency was involved?

14 THE PROSPECTIVE JUROR: Okay. So that was Hawthorne
15 Police Department.

16 THE COURT: Okay.

17 THE PROSPECTIVE JUROR: Okay.

18 THE COURT: Uh-huh. And you know this case doesn't
19 have anything to do with the Hawthorne Police Department?

20 THE PROSPECTIVE JUROR: No. Yes, I understand that,
21 but I can forgive, but I can't forget what happened to him.

22 THE COURT: And you don't think you can be fair and
23 impartial?

24 THE PROSPECTIVE JUROR: It's very difficult. I
25 don't think I could.

1 THE COURT: What's the other question?

2 THE PROSPECTIVE JUROR: Oh, my -- okay, sorry, this
3 is what I mentioned briefly to you yesterday. I have relatives
4 that are law enforcement. I told you I have a daughter works
5 at L.A. County Probation, and I also have one who works in the
6 juvenile courts. I have a son-in-law -- okay, I hate to be
7 repetitive, but he works for L.A. County Sheriff. He does
8 surveillance, or used to do that, and I didn't get a chance to
9 mention this. I have ex-son-in-law who works at a security
10 prison, okay.

11 So anyway, those are the things I just wanted to share
12 with you.

13 THE COURT: Okay.

14 THE PROSPECTIVE JUROR: I told you my wife, she
15 passed, but she used to work with L.A. County Probation. Of
16 course, she's passed. So basically, that's it, sir.

17 THE COURT: Have a seat on the bench there for just
18 a second.

19 THE PROSPECTIVE JUROR: Yes, sir.

20 THE COURT: I will ask some additional questions if
21 anybody wants to keep him on the jury.

22 MR. STEWARD: Our position is he has a number of
23 issues, perhaps any one of which is enough that we'd ask he be
24 excused in combination, and I -- regrettably, I think he needs
25 to go.

1 MR. FOX: That's fine, Your Honor. I have my notes
2 from yesterday stating that he didn't want to be here
3 yesterday, so I think that's the case today.

4 THE COURT: Yep.

5 Just have a seat in the audience, and we'll let you know.

6 THE PROSPECTIVE JUROR: Okay.

7 (End of sidebar discussions.)

8 THE COURT: All right. Let's call the name of
9 another prospective juror, please.

10 THE DEPUTY CLERK: Frank Sternat.

11 THE COURT: Good afternoon.

12 THE PROSPECTIVE JUROR: Good afternoon.

13 THE COURT: Did you hear the questions I asked of
14 the other prospective jurors?

15 THE PROSPECTIVE JUROR: Yes, I did, Your Honor.

16 THE COURT: Is there anything that I've inquired
17 about that in good conscience you should disclose to us?

18 THE PROSPECTIVE JUROR: No.

19 THE COURT: I'm sorry?

20 THE PROSPECTIVE JUROR: No.

21 THE COURT: Anything about the length of the trial
22 that would prevent you from serving?

23 THE PROSPECTIVE JUROR: No.

24 THE COURT: Anything about the nature of these
25 charges that causes you to have any concerns about your ability

1 to be fair and impartial to both sides?

2 THE PROSPECTIVE JUROR: No.

3 THE COURT: All right. If you could take the empty
4 chair on the second row.

5 Excuse me, sir, have a seat.

6 All right. Sir, if you could take the background
7 questionnaire and tell us a little bit about yourself.

8 THE PROSPECTIVE JUROR: Okay. My name is Frank
9 Sternat. I live in Rancho Palos Verdes. I've lived there for
10 38 years. And before I lived there, I was in Torrance for a
11 couple of years. I am married. I have six children, three of
12 my own and three step. Ages: Whoa, 59, two 57s, one 55, one
13 54 and one 48.

14 THE COURT: They're all still living at home? No.

15 THE PROSPECTIVE JUROR: No.

16 THE COURT: Don't worry, they'll be back.

17 What do they do for a living?

18 THE PROSPECTIVE JUROR: The oldest one is
19 unemployed. She's too old to get a job, they say. And the --
20 one 57, which is my daughter, she's unemployed, she just stays
21 home. I think she does some babysitting. The other, 57, is a
22 stepson, and he is -- he works for a firm that imports --
23 imports stuff for security badges and stuff from the Orient
24 mostly. The 55 is a manager of a warehouse. The 54 is an
25 electrician, and the 48 is a -- she works for a -- it's like a

1 mutual fund in Canada.

2 THE COURT: Okay.

3 THE PROSPECTIVE JUROR: And my education is
4 engineering degree -- mechanical engineering degree, bachelor
5 of science. And I was never in the military. I work at Boeing
6 as an engineer. My wife used to be a banker. She's now
7 retired.

8 THE COURT: Ever had any coursework or attend any
9 seminars on criminal justice or criminal law?

10 THE PROSPECTIVE JUROR: No.

11 THE COURT: Any prior jury service?

12 THE PROSPECTIVE JUROR: Yes, about seven times.

13 THE COURT: Okay. Do you recall the most recent
14 time you served on a jury?

15 THE PROSPECTIVE JUROR: The most recent one was
16 about eight years ago and was in Torrance Municipal Court. It
17 was a -- it was a criminal case, and it was settled out of
18 court.

19 THE COURT: Do you recall any of the other cases in
20 which you served as a juror?

21 THE PROSPECTIVE JUROR: Yes, there was one in Long
22 Beach which was a criminal case. It was a -- stolen property,
23 and that was a hung jury.

24 THE COURT: Any others that you recall?

25 THE PROSPECTIVE JUROR: Yeah, there were -- there

1 was -- one was a -- there was one civil case, and I didn't
2 complete that one because I broke my leg.

3 THE COURT: Okay.

4 THE PROSPECTIVE JUROR: And then there was two
5 others that were criminal, but they were settled out of court.
6 They made a settlement, and it was over.

7 THE COURT: Ever been a party or a witness in a
8 civil or criminal case?

9 THE PROSPECTIVE JUROR: No.

10 THE COURT: Have you had a chance to look at the
11 criminal case questionnaire?

12 THE PROSPECTIVE JUROR: Yes, I did.

13 THE COURT: Do you have any yes or affirmative
14 responses to any of those questions?

15 THE PROSPECTIVE JUROR: No.

16 THE COURT: Okay. Pass for cause as to the
17 newly-seated juror?

18 MR. FOX: Yes, Your Honor.

19 MR. STEWARD: Yes, Your Honor.

20 THE COURT: Any additional questions for the
21 newly-seated juror?

22 MR. FOX: One moment, Your Honor.

23 Nothing from the government, Your Honor.

24 MR. STEWARD: And nothing from the defense, Your
25 Honor.

1 THE COURT: All right. I believe the next
2 peremptory rests with the defense.

3 (Defense counsel conferred off the record.)

4 (Counsel conferred off the record.)

5 MR. STEWARD: Your Honor, we'd ask the Court to
6 thank and excuse Juror Number 8, Mr. Sternat.

7 THE COURT: Sir, thank you very much for your
8 service. You may return to the jury assembly room on the third
9 floor.

10 All right. Let's call the name of another prospective
11 juror.

12 THE DEPUTY CLERK: Eric Audas.

13 THE COURT: Good afternoon. Did you hear the
14 questions I asked of the other prospective jurors?

15 THE PROSPECTIVE JUROR: Yes.

16 THE COURT: Is there anything that I've inquired
17 about that in good conscience you should disclose to us?

18 THE PROSPECTIVE JUROR: No.

19 THE COURT: Anything about the length of the trial
20 that would prevent you from serving?

21 THE PROSPECTIVE JUROR: Just the length seems like a
22 little long for me. I talked to my boss yesterday. He said it
23 might be a little bit of an issue, but that's kind of it.

24 THE COURT: Okay. Anything about the nature of
25 these charges that causes you to have any concerns about your

1 ability to be fair and impartial to both sides?

2 THE PROSPECTIVE JUROR: No.

3 THE COURT: Where do you work?

4 THE PROSPECTIVE JUROR: I'm a sales agent for a
5 printing ink company.

6 THE COURT: Okay. Let me talk to you for just a
7 second here.

8 (Discussion held at sidebar.)

9 THE COURT: Does your employer reimburse you?

10 THE PROSPECTIVE JUROR: I'm not exactly sure. They
11 just told me to -- I told them I had jury duty, and then I told
12 him I came yesterday. And then I told them the length of the
13 case and how long it was going to take, and he said that it
14 could become an issue because I just landed a couple really
15 nice big accounts and they're kind of service-oriented.

16 And he's afraid that if I'm gone too long that the
17 accounts are going to suffer. Therefore, my wages are going to
18 because I'm commission-based, and so he said that it could
19 affect my commission if the account suffers because I'm gone.
20 And there's two of them that I'm in charge of that are pretty
21 big.

22 THE COURT: What are your normal hours?

23 THE PROSPECTIVE JUROR: I get up at 5:30, leave my
24 house at 6:00, usually get home around 6:00.

25 THE COURT: Okay. And where is your -- where's the

1 business located?

2 THE PROSPECTIVE JUROR: My headquarters is in San
3 Dimas, and the accounts in question with -- one of them is in
4 Corona, and the other one is in Long Beach.

5 THE COURT: Okay. If the case were over in two and
6 a half weeks, is that going to be a problem for you?

7 THE PROSPECTIVE JUROR: It's just -- it's just to
8 me, I mean, my biggest problem is that the customers -- I mean,
9 I had like 30 voicemails yesterday from three accounts, and
10 it's just -- I mean, the time constraint would be a little
11 hard, but, I mean -- I mean, I kind of -- I like the idea of
12 serving. It just seems like if it went too long, it would be
13 kind of a hardship financially as well.

14 THE COURT: Okay. Well, I guess I need to get a
15 better -- I didn't -- we're not going to -- well, we are going
16 to quit every day at 1:30, and that'll presumably give you time
17 to respond to any --

18 THE PROSPECTIVE JUROR: I would have to see -- most
19 of it is on-call service. If they call me, I got to get there,
20 and that's my -- that's the biggest thing. Because I'm a tech
21 service rep for both of the accounts at the same time.

22 THE COURT: Okay. What business is your company?

23 THE PROSPECTIVE JUROR: It's printing ink. We sell
24 to high-end printers. It's a lot of customer service.

25 THE COURT: You sell the actual printing equipment

1 or the ink?

2 THE PROSPECTIVE JUROR: The ink for the equipment.

3 THE COURT: And the name of your company again?

4 THE PROSPECTIVE JUROR: Great Western Printing Ink.

5 THE COURT: Okay. Have a seat right there for a
6 second.

7 What do you guys want to do?

8 MR. STEWARD: Well, again, because we have a good
9 supply of jurors back behind him, I just -- I would hate to see
10 this guy suffer financially, and who knows, the government's
11 case may go four weeks, in which case he'd be in a lot of
12 trouble. Of course, the government might go two.

13 THE COURT: If this case goes four weeks, I'm going
14 to be in a lot of trouble. Why don't we just put him at the --
15 put him at the back and --

16 MR. FOX: That's fine, Your Honor.

17 THE COURT: Okay.

18 We'll let you know at the end of the day.

19 THE PROSPECTIVE JUROR: Okay.

20 THE COURT: Okay? So just grab a seat in the
21 audience.

22 (End of sidebar discussions.)

23 THE COURT: All right. Let's call the name of
24 another prospective juror.

25 THE DEPUTY CLERK: Gregory Stube.

1 THE COURT: Did you hear the questions I asked of
2 the other prospective jurors?

3 THE PROSPECTIVE JUROR: Yes, Your Honor.

4 THE COURT: Is there anything that I've inquired
5 about that in good conscience you should disclose to us?

6 THE PROSPECTIVE JUROR: Yes, Your Honor.

7 THE COURT: Okay.

8 (Discussion held at sidebar.)

9 THE COURT: Okay. If you could just speak into the
10 microphone.

11 THE PROSPECTIVE JUROR: Yeah, I have kind of
12 followed this case from the beginning and formed an opinion on
13 it.

14 THE COURT: Okay. How have you followed the case?

15 THE PROSPECTIVE JUROR: When it first broke,
16 watching it on the news and also reading about in the
17 newspaper. I also know when the defendant was running for
18 sheriff, I -- excuse me, I investigated him a little bit more
19 on the Internet and kind of came up with a negative feeling
20 towards him.

21 THE COURT: What do you do for a living?

22 THE PROSPECTIVE JUROR: I'm a water distribution
23 operator.

24 THE COURT: And who do you work for?

25 THE PROSPECTIVE JUROR: City of Ontario.

1 THE COURT: Okay. I assume that if this was a civil
2 case or some other case, you could serve?

3 THE PROSPECTIVE JUROR: If it was -- yeah, if it was
4 anybody else that I haven't read about. I just feel that I
5 wouldn't be fair to him. That's --

6 THE COURT: Okay. So if it was an unpublicized bank
7 robbery case, you could serve?

8 THE PROSPECTIVE JUROR: Yes.

9 THE COURT: Okay. Just have a seat in the audience.
10 We'll let you know.

11 THE PROSPECTIVE JUROR: Okay.

12 (End of sidebar discussions.)

13 THE COURT: Let's call the name of another
14 prospective juror.

15 THE DEPUTY CLERK: Cynthia Lara.

16 THE PROSPECTIVE JUROR: Hi. Do I go --

17 THE COURT: No, that's fine. I'm just going to stay
18 here.

19 THE PROSPECTIVE JUROR: Oh, okay.

20 THE COURT: Did you hear the questions I asked of
21 the other prospective jurors?

22 THE PROSPECTIVE JUROR: Yes.

23 THE COURT: Is there anything that I've inquired
24 about that in good conscience you should disclose to us?

25 THE PROSPECTIVE JUROR: No.

1 THE COURT: Anything about the length of the trial
2 that would prevent you from serving?

3 THE PROSPECTIVE JUROR: The length.

4 THE COURT: Okay.

5 (Discussion held at sidebar.)

6 THE COURT: You need to come to the microphone.

7 THE PROSPECTIVE JUROR: The length because my
8 brother has terminal cancer in Tennessee, and we're just trying
9 to make -- I'm sorry, I'm so nervous.

10 THE COURT: That's okay.

11 THE PROSPECTIVE JUROR: I'm trying to make it to
12 him. They gave him two months to live in August. So we're
13 trying to make it out there because we're going to be driving
14 until the weather gets better. So we're just hoping, so four
15 weeks it should be better in May than it is in April because of
16 the rain and going on the 10 freeway. That's what my husband
17 says.

18 THE COURT: Okay. So when do you think you're going
19 to leave to go back?

20 THE PROSPECTIVE JUROR: I think we're going to leave
21 to go back -- we want to go back as soon as possible, but at
22 the end of it -- middle of May, I'd like to say.

23 THE COURT: Okay. Well, this case will be over with
24 by the end of -- it'll be over before the end of April.

25 THE PROSPECTIVE JUROR: Okay.

1 THE COURT: Okay.

2 THE PROSPECTIVE JUROR: But I am also impartial
3 because I have a lot of friends that are on the Sheriff's
4 Department. And he was a jailer in West Covina, and they --
5 and so then -- and they talk, you know, with people. And my
6 boss years ago was beaten up by a sheriff, and he won the case
7 through the -- but -- and I just have -- my brother was
8 ex-sheriff, retired sheriff.

9 THE COURT: Okay. Do you think you'd have
10 difficulty putting aside these --

11 THE PROSPECTIVE JUROR: What I've heard?

12 THE COURT: Uh-huh.

13 THE PROSPECTIVE JUROR: Probably yes, and I've --
14 because I've heard other things about the jails and stuff, and
15 I have a whole bunch of -- on the criminal questionnaire, I
16 think the things that I have an exclusion but...

17 THE COURT: Okay.

18 THE PROSPECTIVE JUROR: I'm a nervous wreck.

19 THE COURT: Just have a seat on the bench right
20 there.

21 THE PROSPECTIVE JUROR: Right there?

22 THE COURT: Uh-huh.

23 MR. FOX: Just so you know, Your Honor, my notes
24 from yesterday say that she said that serving's not a hardship,
25 but she knows all about the case. Now she's raised about four

1 other issues that she didn't raise yesterday, she's raised
2 knowing about the case today, but I think she's another one
3 that probably does not want to be here --

4 MR. STEWARD: Agreed.

5 MR. FOX: -- but has made a record that neither
6 party probably wants her.

7 MR. STEWARD: And I agree with that as well. We
8 agree.

9 THE COURT: All right. Now, you understand that if
10 I get the sense that people are trying to get out of jury duty,
11 that I will keep them here --

12 THE PROSPECTIVE JUROR: Yes.

13 THE COURT: -- this entire trial?

14 THE PROSPECTIVE JUROR: Yes, I do.

15 THE COURT: Even though they're not on the jury, do
16 you understand that?

17 THE PROSPECTIVE JUROR: Yeah, I just -- I just don't
18 think too -- I am just -- I don't know with this big case, I
19 don't know how I would handle it, but I have to do what I have
20 to do. But I just -- whatever you think.

21 THE COURT: Have a seat in the audience. You may be
22 here for a while.

23 THE PROSPECTIVE JUROR: Okay.

24 THE COURT: Okay? Uh-huh.

25 (End of sidebar discussions.)

1 THE COURT: Let's call the name of another
2 prospective juror.

3 THE DEPUTY CLERK: Sheila Fuller.

4 THE COURT: Good afternoon.

5 THE PROSPECTIVE JUROR: Good afternoon.

6 THE COURT: Did you hear the questions I asked of
7 the other prospective jurors?

8 THE PROSPECTIVE JUROR: Yes.

9 THE COURT: Is there anything about the nature of
10 these charges that would cause you to have any concerns about
11 your ability to serve as a juror in this case?

12 THE PROSPECTIVE JUROR: No.

13 THE COURT: Anything about the length of the trial
14 that would prevent you from serving?

15 THE PROSPECTIVE JUROR: No.

16 THE COURT: Okay. If you could take that empty
17 chair on the second row.

18 All right. Do you have a copy of the background
19 questionnaire?

20 THE PROSPECTIVE JUROR: Yes.

21 THE COURT: Okay. If you could tell us a little bit
22 about yourself.

23 THE PROSPECTIVE JUROR: My name is Sheila Fuller. I
24 live in Dominguez Hills. I've lived there for 19 years now.
25 Before, I lived in Los Angeles. I'm a widow. I'm the mother

1 of three: one daughter, two sons. My daughter is deceased.

2 THE COURT: And how old are your sons?

3 THE PROSPECTIVE JUROR: My sons are 39 and 35.

4 THE COURT: Okay. And what do they do for a living?

5 THE PROSPECTIVE JUROR: One is a customer service
6 representative; the other is a buyer.

7 THE COURT: Okay. And by whom are they employed?

8 THE PROSPECTIVE JUROR: I'm not sure of one. One
9 is -- I'm not sure, service representative, but the one that's
10 a buyer, he's with Frieda's, Incorporated.

11 THE COURT: Okay. Your educational background?

12 THE PROSPECTIVE JUROR: I have a bachelor's in
13 business management.

14 THE COURT: Ever served in the military?

15 THE PROSPECTIVE JUROR: No, I haven't.

16 THE COURT: And what do you do for a living?

17 THE PROSPECTIVE JUROR: I'm a retired payroll
18 technician from the Los Angeles Unified School District.

19 THE COURT: Ever taken any coursework or attended
20 any seminars in criminal justice?

21 THE PROSPECTIVE JUROR: No, I haven't.

22 THE COURT: Ever served on a jury before?

23 THE PROSPECTIVE JUROR: Many times.

24 THE COURT: Okay. Do you recall the most recent
25 occasion?

1 THE PROSPECTIVE JUROR: Four years ago.

2 THE COURT: And do you recall what kind of case it
3 was?

4 THE PROSPECTIVE JUROR: It was criminal.

5 THE COURT: And was the jury able to reach a
6 verdict?

7 THE PROSPECTIVE JUROR: Yes, it was.

8 THE COURT: Do you recall generally what the case
9 was about?

10 THE PROSPECTIVE JUROR: Child molestation.

11 THE COURT: Ever been a witness or a party in a
12 civil or criminal case?

13 THE PROSPECTIVE JUROR: No, I haven't.

14 THE COURT: Have you had a chance to look at the
15 criminal case questionnaire?

16 THE PROSPECTIVE JUROR: Yes, I have.

17 THE COURT: Do you have any yes or affirmative
18 responses to any of those questions?

19 THE PROSPECTIVE JUROR: No, I do not.

20 THE COURT: Okay. Pass for cause as to the
21 newly-seated juror?

22 MR. FOX: Yes, Your Honor.

23 MR. STEWARD: Yes, Your Honor.

24 THE COURT: Does either party wish to have any
25 additional questions asked of the newly-seated juror?

1 MR. FOX: Not from the government, Your Honor.

2 MR. STEWARD: Not from the defense, Your Honor.

3 THE COURT: All right. I believe the next
4 peremptory rests with the government.

5 MR. FOX: One moment, Your Honor, please.

6 (Plaintiff's counsel conferred off the record.)

7 (Counsel conferred off the record.)

8 MR. FOX: Your Honor, the government accepts this
9 jury as presently constituted.

10 THE COURT: All right. Next peremptory rests with
11 the defense.

12 MR. STEWARD: Thank you, Your Honor.

13 (Defense counsel conferred off the record.)

14 (Counsel conferred off the record.)

15 MR. STEWARD: Your Honor, we'd ask the Court to
16 thank and excuse Juror Number 1, Mr. Weller.

17 THE COURT: All right. Sir, you're excused. You
18 may return to the jury assembly room on the third floor.

19 All right. Let's call the name of another prospective
20 juror.

21 THE DEPUTY CLERK: Miguel Flores.

22 THE COURT: Sir, did you hear the questions I asked
23 of the other prospective jurors?

24 THE PROSPECTIVE JUROR: Yes.

25 THE COURT: Is there anything I've inquired about

1 that in good conscience you should disclose to us?

2 THE PROSPECTIVE JUROR: No.

3 THE COURT: Anything about the length of the trial
4 that would prevent you from serving?

5 THE PROSPECTIVE JUROR: No.

6 THE COURT: All right. If you could take the empty
7 chair on the first row, and if you could tell us a little bit
8 about yourself.

9 THE PROSPECTIVE JUROR: My name is Miguel Flores. I
10 live in Baldwin Park. I lived there most of my life. Not
11 married, no children. Some college. No military.

12 THE COURT: What do you do for a living?

13 THE PROSPECTIVE JUROR: I work for Home Depot.

14 Let's see.

15 THE COURT: Ever taken any coursework in criminal
16 law or criminal justice?

17 THE PROSPECTIVE JUROR: No.

18 THE COURT: Any prior jury service?

19 THE PROSPECTIVE JUROR: No.

20 THE COURT: Ever been a party or a witness in a
21 civil or criminal case?

22 THE PROSPECTIVE JUROR: No.

23 THE COURT: Have you had a chance to look at the
24 criminal case questionnaire?

25 THE PROSPECTIVE JUROR: Yes.

1 THE COURT: Do you have any yes or affirmative
2 responses to any of those questions?

3 THE PROSPECTIVE JUROR: Number 10, my brother's a
4 sheriff.

5 THE COURT: Okay. And is that with the Los Angeles
6 County Sheriff's Department?

7 THE PROSPECTIVE JUROR: Yes.

8 THE COURT: And what does he do?

9 THE PROSPECTIVE JUROR: I believe he's a
10 transporter.

11 THE COURT: Okay. Is --

12 THE PROSPECTIVE JUROR: I think that's the correct
13 terminology for it.

14 THE COURT: Okay. Is he a uniform employee, or is
15 it civilian employee?

16 THE PROSPECTIVE JUROR: Uniform.

17 THE COURT: Do you know if he's ever worked in the
18 jails?

19 THE PROSPECTIVE JUROR: Yes.

20 THE COURT: Okay. Could you join us over here for
21 just a minute.

22 (Discussion held at sidebar.)

23 THE COURT: Have you ever talked to your brother
24 about the work he does in the jails?

25 THE PROSPECTIVE JUROR: No, not really.

1 THE COURT: Okay. Are you -- so you and he have
2 never had any discussions about what he does?

3 THE PROSPECTIVE JUROR: No.

4 THE COURT: Okay. Has he ever mentioned to you the
5 name of the defendant?

6 THE PROSPECTIVE JUROR: No.

7 THE COURT: Okay. Have you read anything about this
8 case?

9 THE PROSPECTIVE JUROR: No.

10 THE COURT: Do you think you can put aside the fact
11 that your brother works for the Los Angeles County Sheriff's
12 Department and judge this case based solely on the evidence you
13 hear here in court?

14 THE PROSPECTIVE JUROR: Yes.

15 THE COURT: Okay. There may be witnesses who are
16 deputies with the Los Angeles County Sheriff's Department,
17 witnesses who are law enforcement officers. Can you put aside
18 the fact that your brother is a deputy and decide their
19 credibility the same way you would that of any other witness?

20 THE PROSPECTIVE JUROR: Yes.

21 THE COURT: Okay. Any other affirmative answers to
22 any of the other questions?

23 THE PROSPECTIVE JUROR: No.

24 THE COURT: Okay. Thank you very much.

25 THE PROSPECTIVE JUROR: Can I go back?

1 THE COURT: Why don't you have a seat on the bench
2 for just a moment.

3 MR. FOX: Just out of abundance of caution, Your
4 Honor, I'd like to know his brother's name just in case there's
5 something that's come up about him in the investigation. I
6 doubt there has been, but just out of abundance of caution.

7 MR. JAUREGUI: Maybe his rank and where he works.

8 THE COURT: Okay. Do you know what station your
9 brother works in?

10 THE PROSPECTIVE JUROR: You know, I haven't talked
11 to him about his job recently. The last I've known is that
12 he's a transporter bus driver, last time I heard from him.

13 THE COURT: Okay. And do you know -- what's his
14 name?

15 THE PROSPECTIVE JUROR: Jose Flores.

16 THE COURT: Jose Flores. Okay.

17 Do you know what his rank is?

18 THE PROSPECTIVE JUROR: No. No, I don't.

19 THE COURT: Okay. Just have a seat right there.

20 MR. FOX: The government doesn't have any follow-up
21 questions.

22 MR. STEWARD: Nor does the defense.

23 THE COURT: Pass for cause?

24 MR. STEWARD: Yes.

25 MR. FOX: Yes, Your Honor.

1 THE COURT: All right. Sir, if you could resume
2 your seat.

3 (End of sidebar discussions.)

4 THE COURT: All right. I believe the next
5 peremptory rests with the government.

6 MR. FOX: May I have a moment, Your Honor?

7 THE COURT: Yes.

8 (Plaintiff's counsel conferred off the record.)

9 (Counsel conferred off the record.)

10 MR. FOX: Your Honor, we accept the jury as
11 presently constituted.

12 THE COURT: All right. Next peremptory rests with
13 the defense.

14 MR. STEWARD: May we have one moment, Your Honor.

15 THE COURT: All right.

16 (Defense counsel conferred off the record.)

17 MR. STEWARD: Your Honor, the defense accepts the
18 panel as constituted.

19 THE COURT: All right. Any reason why the panel
20 shouldn't be sworn?

21 MR. FOX: No, Your Honor.

22 MR. STEWARD: None, Your Honor.

23 THE COURT: I'm going to ask the clerk to swear the
24 panel.

25 THE PROSPECTIVE JUROR: Your Honor, can I speak to

1 you at sidebar?

2 THE COURT: Yes.

3 (Discussion held at sidebar.)

4 (Sealed portion of transcript to be separately filed with
5 Judge Anderson's authorization.)

6 (End of sidebar discussions.)

7 THE DEPUTY CLERK: If you'll all stand and raise
8 your right hand for me.

9 (The jury panel was sworn.)

10 THE DEPUTY CLERK: Thank you.

11 THE COURT: All right. Thank you very much.

12 Ladies and gentlemen, we're going to take four alternates
13 for this case, but before we start that, we're going to take
14 our final break of the day.

15 Again, I want to remind you until this trial is over,
16 you're not to discuss this case with anyone, including people
17 involved in the trial, your fellow jurors, members of your
18 family, nor are you permitted to allow others to approach you
19 and try to talk with you about this case. This includes
20 communicating about the case by e-mail. Don't use any social
21 networking sites, any blogs, Facebook, Twitter. If anyone
22 approaches you and tries to talk with you about this case,
23 please let me know about it immediately.

24 Do not read any news stories or articles or listen to any
25 news reports about the case or anyone who has anything to do

1 with it. Do not do any research such as consulting
2 dictionaries, searching the Internet or using other reference
3 materials, and do not make any investigation about the case on
4 your own. If you need to communicate with me, simply give a
5 note to the clerk.

6 Let's come back at -- let's make it five after the hour,
7 and I think we can probably speed through this very quickly.

8 (The jury exited the courtroom.)

9 THE COURT: All right. Ladies and gentlemen, we'll
10 be back in about ten minutes.

11 MR. STEWARD: Your Honor, we have an issue, if we
12 may either at sidebar or when the jury has left.

13 THE COURT: Okay. I'm going to ask any prospective
14 jurors to temporarily step outside for a moment.

15 (Pause in proceedings.)

16 MR. STEWARD: It has to do with what we discussed.

17 THE COURT: Just one second.

18 MR. STEWARD: Sure. I'm sorry. What we just
19 discussed at sidebar, Mr. Haig and I observed Ms. Wilton after
20 she sat down and after the Court assured her, in our view, she
21 looked in a very frightened manner at our client. We remain
22 deeply concerned that she is on this panel, and we would point
23 out that she's had at least a full day to bring these concerns
24 to us.

25 She waited until seconds before she was going to be sworn

1 in to bring these to the attention of the Court, and we're
2 deeply concerned starting this trial with a juror in that frame
3 of mind. We believe we made a reasonable request. The Court
4 approved the request, and it's not our fault that this lady
5 waited until the very end to say anything about this.

6 THE COURT: Made a reasonable request to do what?

7 MR. STEWARD: Originally to use names instead of
8 numbers.

9 THE COURT: Yeah, and I cautioned both sides that
10 based on our past experience, that it would probably be better
11 to use an anonymous jury.

12 Now, I will make some further inquiries of the juror to
13 assure myself that she can be fair and impartial.

14 MR. FOX: Your Honor, may I also add, while we were
15 at sidebar the defense did not try to strike her for cause at
16 that point. And you asked if there was any reason why they
17 couldn't be sworn in, and then they were sworn in, and now this
18 issue's being raised.

19 So this seems to be a complication that is of the
20 defense's making right now, and to the extent that she is
21 afraid and concerned about reaching a verdict against
22 Mr. Tanaka, that would only inert his benefit. So I don't know
23 how this is prejudicial to the defense, and like I said, this
24 is an issue that I see is their own making.

25 MR. STEWARD: I'll accept that the woman here looks

1 like she's afraid of our client.

2 THE COURT: Sir, I don't know how you can discern
3 that from looking over at her at this point. So again, I'll
4 make some further inquiries of the juror and satisfy myself
5 that she can remain fair and impartial and that she can render
6 a just verdict in this case.

7 MR. STEWARD: Thank you, Your Honor.

8 THE COURT: Okay.

9 MR. FOX: Your Honor, I'm sorry, there was one very
10 minor point. You said this was going to be the last break of
11 the day. I've not had a chance to set up my opening PowerPoint
12 slides. I don't want to set anything up with the prospective
13 jurors in here.

14 THE COURT: That's fine. You'll have some time.

15 MR. FOX: Thank you, Your Honor.

16 (Off the record at 2:58 p.m.)

17 (On the record at 3:10 p.m.)

18 THE COURT: Let's bring the jury in.

19 (The jury entered the courtroom.)

20 THE DEPUTY CLERK: Please be seated.

21 THE COURT: All right. We're going to impanel four
22 alternates. The first name that's called will be Alternate
23 Number 1, will take the last seat on the first row.

24 Alternate Number 2 will take the last seat on the second
25 row.

1 Alternate Number 3 will take the seat closest to the jury
2 box, and Alternate Number 4 will take the remaining seat just
3 outside the jury box.

4 All right. I'm going to ask the clerk to call those
5 names, please.

6 THE DEPUTY CLERK: Albert Shaheen.

7 THE COURT: All right. Sir, if you'd just step to
8 the lectern there.

9 Did you hear the questions I asked of the other
10 prospective jurors?

11 THE PROSPECTIVE JUROR: Yes, Your Honor.

12 THE COURT: Is there anything that I've inquired
13 about that in good conscience you should disclose to us?

14 THE PROSPECTIVE JUROR: No, Your Honor.

15 THE COURT: Anything about the length of the trial
16 that would prevent you from serving?

17 THE PROSPECTIVE JUROR: No.

18 THE COURT: Okay. If you'd take that last seat on
19 the first row, please.

20 THE DEPUTY CLERK: Kang Chan.

21 THE COURT: Sir, did you hear the questions I asked
22 of the other prospective jurors?

23 THE PROSPECTIVE JUROR: Yes, Your Honor.

24 THE COURT: Is there anything that I've inquired
25 about that you should tell us?

1 THE PROSPECTIVE JUROR: No.

2 THE COURT: Anything about the length of the trial
3 that would prevent you from serving?

4 THE PROSPECTIVE JUROR: No.

5 THE COURT: All right. Sir, if you'd take that last
6 seat on the second row.

7 THE DEPUTY CLERK: Peggy Lim. I think she was
8 excused.

9 Nicole Crosgrove.

10 THE COURT: Good afternoon.

11 THE PROSPECTIVE JUROR: Hello.

12 THE COURT: Did you hear the questions I asked of
13 the other prospective jurors?

14 THE PROSPECTIVE JUROR: Yes, Your Honor.

15 THE COURT: Is there anything that I've inquired
16 about that in good conscience you should disclose to us?

17 THE PROSPECTIVE JUROR: No, Your Honor.

18 THE COURT: Anything about the length of the trial
19 that would prevent you from serving?

20 THE PROSPECTIVE JUROR: No.

21 THE COURT: All right. If you could take that seat
22 just outside the jury box.

23 THE DEPUTY CLERK: Elaine Haley.

24 THE COURT: Did you hear the questions I asked of
25 the other prospective jurors?

1 THE PROSPECTIVE JUROR: Yes, I did.

2 THE COURT: Is there anything that I've inquired
3 about that in good conscience you should disclose to us?

4 THE PROSPECTIVE JUROR: No.

5 THE COURT: Anything about the length of the trial
6 that would prevent you from serving?

7 THE PROSPECTIVE JUROR: No, Your Honor.

8 THE COURT: Okay. If you could take that last seat
9 there.

10 And if I could see Juror Number 2 over at sidebar for just
11 a moment.

12 (Discussion held at sidebar.)

13 (Sealed portion of transcript to be separately filed with
14 Judge Anderson's authorization.)

15 (End of sidebar discussions.)

16 THE COURT: Let me just talk to the court reporter
17 for just one second.

18 (Pause in proceedings.)

19 THE COURT: All right. We're going to start with
20 Prospective Alternate Number 1. Do you have a copy of the
21 background questionnaire?

22 THE PROSPECTIVE JUROR: Yes, Your Honor.

23 THE COURT: Okay. If you could tell us a little bit
24 about yourself.

25 THE PROSPECTIVE JUROR: Yes. My name is Al Shaheen.

1 I live in Long Beach. I've been there 30 years. Prior to
2 that, I lived in Colorado, Arizona, Berkley, Bakersfield and
3 South Africa. I'm married. I have two children from a prior
4 marriage. My daughter is 30 and lives in Ireland. My son is
5 28 and lives in Mexico City.

6 THE COURT: And what do your children do for a
7 living?

8 THE PROSPECTIVE JUROR: My daughter works for -- I
9 don't remember the name, but they are distributing the money to
10 the -- from the Catholic church to victims of abuse, and my son
11 is a student. I have a BS in chemistry, a master's in
12 education. No military service. I'm, excuse me, a chemistry
13 teacher at Poly High School in Long Beach.

14 THE COURT: Jackrabbits.

15 THE PROSPECTIVE JUROR: That's right.

16 THE COURT: There you go.

17 THE PROSPECTIVE JUROR: Home of scholars and
18 champions.

19 THE COURT: Home of scholars and champions.

20 THE PROSPECTIVE JUROR: Right down the street from
21 St. Anthony.

22 THE COURT: That's right.

23 THE PROSPECTIVE JUROR: I work for Long Beach
24 Unified School District.

25 THE COURT: I think I took chemistry from -- no.

1 THE PROSPECTIVE JUROR: Maybe one of your kids,
2 yeah.

3 THE COURT: It was probably my brother.

4 THE PROSPECTIVE JUROR: Yeah. My wife is a real
5 estate agent and --

6 THE COURT: Ever taken any coursework in criminal
7 law or criminal justice?

8 THE PROSPECTIVE JUROR: No.

9 THE COURT: Any prior jury service?

10 THE PROSPECTIVE JUROR: No.

11 THE COURT: You ever been a party or a witness in a
12 criminal or civil case?

13 THE PROSPECTIVE JUROR: No, Your Honor.

14 THE COURT: Have you had a chance to look at the
15 criminal case questionnaire?

16 THE PROSPECTIVE JUROR: Yes, I have.

17 THE COURT: Do you have any yes or affirmative
18 responses to any of those questions?

19 THE PROSPECTIVE JUROR: I do.

20 THE COURT: Okay.

21 THE PROSPECTIVE JUROR: Number 1, my son was
22 arrested eight years ago, spent 11 days in the Central Jail
23 here in L.A., was convicted. He also spent some time at
24 Wayside Honor for a probation violation on a prior misdemeanor.
25 I, maybe 20 years ago, received a couple of phone calls from

1 LBPOA for donations, and I did donate some small amounts back
2 then. That's another one. I think 22 was the conviction --
3 oh, detained. Yes, my son was in the county jail. I think
4 that's it.

5 THE COURT: Let me ask you just a couple of
6 questions. You ever had conversations with your son about that
7 experience?

8 THE PROSPECTIVE JUROR: The day I picked him up, he
9 didn't like it. Other than that, I mean, I think 11 days there
10 taught him more than 20 years of nagging from me about how to
11 straighten out his life, so...

12 THE COURT: Can you put aside that experience and be
13 fair and impartial to both sides in this case?

14 THE PROSPECTIVE JUROR: Yes.

15 THE COURT: Did he have any complaints about the
16 treatment that he received?

17 THE PROSPECTIVE JUROR: No. The vending machines,
18 he didn't like the food.

19 THE COURT: Any other yes or affirmative responses
20 to any of the other questions?

21 THE PROSPECTIVE JUROR: No, Your Honor.

22 THE COURT: All right. If you could pass the
23 microphone to the next gentleman seated behind you, and, sir,
24 if you could take the background questionnaire and tell us a
25 little bit about yourself.

1 THE PROSPECTIVE JUROR: My name is Kang Chan. I
2 live in Cerritos. I've been there for 28 years. Before moving
3 to Cerritos, I was in West Los Angeles. I am married. I have
4 two children, both daughters. The older daughter is 29 years
5 old. She is an accountant. And the younger daughter is 23
6 years old. She is a financial analyst. I have a master's
7 degree electrical engineering. I served two years in the Army
8 in Taiwan. I was a second lieutenant. I used to be engineer
9 and a sales manager before I retired. I retired in 2013.

10 THE COURT: Who did you work for at the time of your
11 retirement?

12 THE PROSPECTIVE JUROR: I worked for Xerox
13 Corporation, TDK Semiconductor and PCB semiconductors.

14 THE COURT: And does your wife work?

15 THE PROSPECTIVE JUROR: Yes, she works for Siemens
16 Corporation.

17 THE COURT: And what does she do for a living?

18 THE PROSPECTIVE JUROR: She's a computer programmer.

19 THE COURT: Ever taken any coursework in criminal
20 law or criminal justice?

21 THE PROSPECTIVE JUROR: No.

22 THE COURT: Ever served on a jury before?

23 THE PROSPECTIVE JUROR: I'm sorry?

24 THE COURT: Have you ever served on a jury?

25 THE PROSPECTIVE JUROR: Yes.

1 THE COURT: And when was that?

2 THE PROSPECTIVE JUROR: I served twice.

3 THE COURT: Okay.

4 THE PROSPECTIVE JUROR: It was -- the first time was
5 over 20 years ago.

6 THE COURT: Okay.

7 THE PROSPECTIVE JUROR: The second time, maybe ten
8 years ago.

9 THE COURT: Okay. Do you remember what those cases
10 were about?

11 THE PROSPECTIVE JUROR: The first one was a
12 criminal.

13 THE COURT: Okay. Was the jury able to reach a
14 verdict?

15 THE PROSPECTIVE JUROR: Yes.

16 THE COURT: And what about the other one?

17 THE PROSPECTIVE JUROR: I can't remember for
18 certainty.

19 THE COURT: Do you recall if the jury was able to
20 reach a verdict in that one?

21 THE PROSPECTIVE JUROR: The first one, we did.

22 THE COURT: Okay. Ever been a party or a witness in
23 a civil or criminal case?

24 THE PROSPECTIVE JUROR: No.

25 THE COURT: Have you had a chance to look at the

1 criminal case questionnaire?

2 THE PROSPECTIVE JUROR: No.

3 THE COURT: Okay. There is a -- there's a document
4 that's entitled Jury Questions Criminal Case Questionnaire.

5 THE PROSPECTIVE JUROR: Yes.

6 THE COURT: Do you have that?

7 THE PROSPECTIVE JUROR: Yes, I do.

8 THE COURT: Okay. Did you have any yes responses to
9 any of those questions?

10 THE PROSPECTIVE JUROR: For Number 1, Number 2.

11 THE COURT: Okay. Could you tell us about Number 1.

12 THE PROSPECTIVE JUROR: My nephew had a plea bargain
13 with a break-in incident. He was jailed for six months.

14 THE COURT: And do you know what police agency was
15 involved?

16 THE PROSPECTIVE JUROR: He was in Buena Park. I'm
17 not sure which station it was.

18 THE COURT: Is there anything about that experience
19 that causes you to have any doubts about your ability to be
20 fair and impartial to both sides?

21 THE PROSPECTIVE JUROR: No.

22 THE COURT: Okay. And what about Number 2?

23 THE PROSPECTIVE JUROR: The second one?

24 THE COURT: Yes.

25 THE PROSPECTIVE JUROR: I was mugged about almost 40

1 years ago in West L.A.

2 THE COURT: Where did that take place?

3 THE PROSPECTIVE JUROR: West Los Angeles.

4 THE COURT: Okay. Did you have any complaints about
5 the way the case was handled by the police?

6 THE PROSPECTIVE JUROR: No.

7 THE COURT: Any other yes or affirmative answers to
8 any of the other questions?

9 THE PROSPECTIVE JUROR: No others.

10 THE COURT: All right. Thank you very much. If you
11 could pass the microphone.

12 And if you could tell us a little bit about yourself.

13 THE PROSPECTIVE JUROR: Okay. My name is Nicole
14 Crosgrove. I live in Simi Valley. I've been there for about
15 24 years. I left for a little bit for college. I was in the
16 Napa Valley, Riverside and San Bernardino for a couple years.
17 I am single. I don't have any children. I have a master's and
18 a bachelor's in social work. I do not have any military
19 service.

20 I currently work for agency called Koinonia. It's a
21 foster family agency. I used to work for Ventura County
22 Children & Family Services for about two years. I haven't
23 taken any classes in criminal justice. I don't have any prior
24 jury experience, and I haven't been a party or witness to a
25 case.

1 THE COURT: Okay. Have you had a chance to look at
2 the criminal case questionnaire?

3 THE PROSPECTIVE JUROR: Yes.

4 THE COURT: Do you have any yes responses to any of
5 those questions?

6 THE PROSPECTIVE JUROR: No.

7 THE COURT: All right. Thank you very much.

8 And if you could tell us a little bit about yourself.

9 THE PROSPECTIVE JUROR: My name is Elaine Haley. I
10 live in Los Angeles all my life. I live in Los Angeles.

11 THE COURT: Okay. And your marital status?

12 THE PROSPECTIVE JUROR: I'm single, no children. I
13 have a bachelors of science degree in business administration.
14 No military service. I currently work for the Department of
15 Children & Family Services for L.A. County. Before that, I
16 worked for the Los Angeles Unified School District.

17 THE COURT: Ever taken any courses in criminal law
18 or criminal justice?

19 THE PROSPECTIVE JUROR: Yes, I have.

20 THE COURT: Okay. And what type of classes have you
21 taken?

22 THE PROSPECTIVE JUROR: I had criminal class in
23 minorities and the legal system at Cal State L.A., and also a
24 class in written communications in criminal justice.

25 THE COURT: Okay. Think you can put aside that

1 classwork and follow the Court's instructions on the law that's
2 applicable to this case?

3 THE PROSPECTIVE JUROR: Yes, I can.

4 THE COURT: Any prior jury service?

5 THE PROSPECTIVE JUROR: No prior jury service.

6 THE COURT: Ever been a party or a witness in a
7 civil or criminal case?

8 THE PROSPECTIVE JUROR: No.

9 THE COURT: Have you had a chance to look at the
10 criminal case questionnaire?

11 THE PROSPECTIVE JUROR: Yes, I have.

12 THE COURT: Do you have any yes responses to any of
13 those questions?

14 THE PROSPECTIVE JUROR: I have two yeses to 1 and 2.

15 THE COURT: Okay.

16 THE PROSPECTIVE JUROR: I've been arrested myself
17 back in 1989, and the case was dismissed.

18 THE COURT: Do you know what police agency was
19 involved?

20 THE PROSPECTIVE JUROR: It was Temple City Sheriff's
21 Department, Los Angeles County.

22 THE COURT: Is there anything about that experience
23 that causes you to have any concerns about your ability to be
24 fair and impartial to both sides in this case?

25 THE PROSPECTIVE JUROR: No, Your Honor.

1 THE COURT: Okay. You can put aside that experience
2 and be fair and impartial to both sides?

3 THE PROSPECTIVE JUROR: Yes, I can.

4 THE COURT: And what about Question 2?

5 THE PROSPECTIVE JUROR: I had someone use my name
6 before and got arrested in my name back in 1992, and I went to
7 court to resolve that matter.

8 THE COURT: Okay. Anything about that experience
9 that causes you to be concerned about your ability to be fair
10 and impartial to both sides?

11 THE PROSPECTIVE JUROR: No.

12 THE COURT: Okay. Thank you very much.

13 If I could see counsel at sidebar, please.

14 And do you have any yes responses to any other of the
15 questions?

16 THE PROSPECTIVE JUROR: No yeses to any other
17 questions.

18 THE COURT: Okay. Thank you.

19 (Discussion held at sidebar.)

20 THE COURT: Okay. Pass for cause as to the
21 alternates?

22 MR. FOX: Yes, Your Honor.

23 MR. STEWARD: Yes, Your Honor.

24 THE COURT: Okay. Do you have any additional
25 follow-up questions for any of the alternates?

1 MR. FOX: May I have one moment with Ms. Rhodes?

2 THE COURT: Yes.

3 (Plaintiff's counsel conferred off the record.)

4 MR. FOX: We don't have any follow-up, Your Honor.

5 THE COURT: Okay. What we're going to do is I'm
6 going to -- you're going to have two challenges apiece. First
7 will go to the government, next to the defense, and then back
8 to the government and then to the defense. Okay? All right.

9 (End of sidebar discussions.)

10 THE COURT: All right. The first peremptory rests
11 with the government.

12 MR. FOX: Your Honor, the government accepts the
13 present panel as presently constituted.

14 THE COURT: And the next peremptory rests with the
15 defense.

16 MR. STEWARD: And, Your Honor, we also accept the
17 alternates as currently impanelled.

18 THE COURT: Any reason why the alternates shouldn't
19 be sworn in?

20 MR. FOX: No, Your Honor.

21 MR. STEWARD: No, Your Honor.

22 THE COURT: Okay. I'm going to ask the clerk to
23 swear the alternates.

24 THE DEPUTY CLERK: Would you please stand and raise
25 your right hands for me.

1 (The alternate jurors were sworn.)

2 THE DEPUTY CLERK: Thank you.

3 THE COURT: All right. Ladies and gentlemen, I want
4 to thank you for your service today. You may now return to the
5 jury assembly room on the third floor, and have a nice day.

6 (The prospective jurors exited the courtroom.)

7 THE COURT: Ladies and gentlemen, what we're going
8 to do is we're going to take a short break. I'm going to have
9 you retire into the jury room. The clerk is going to go over
10 with you some logistics for when you come in in the morning,
11 going to show you how you enter into the courtroom and into the
12 jury room, and he's going to give you a number to call if
13 you're running late in the morning.

14 I want to remind you that if you're not used to coming
15 downtown in the mornings, you need to give yourself plenty of
16 time because traffic can sometimes get a little snarled. And
17 the most important thing is we can't start unless all of you
18 are present, and so make sure that you give yourself enough
19 time to get here by eight o'clock. We're going to start at
20 8:00, go to 1:30, and then we're going to quit.

21 Okay. I'm going to ask the clerk to take you back into
22 the jury room, go over that information, and then we're going
23 to get started. I'm going to have some instructions for you,
24 and then we'll have the opening statements of counsel.

25 (The jury exited the courtroom.)

1 THE COURT: All right. I'm going to have some
2 instructions -- preliminary instructions for the jury. I'm
3 going to give them 1.1, 1.2, 1.3, 1.4, 1.5, 1.6, 1.7, 1.8, 1.9,
4 1.10, 1.11, 1.12, and I'll probably give 2.2.

5 MR. FOX: No objection, Your Honor.

6 MR. STEWARD: No objection, Your Honor.

7 THE COURT: All right.

8 All right. I think it's probably going to take him about
9 ten minutes to get the jury squared away, and as soon as he's
10 ready, then we'll have the opening statements.

11 MR. FOX: Thank you, Your Honor.

12 THE COURT: Okay. Thank you very much.

13 And let's keep in mind it's an opening statement, not a
14 closing argument.

15 (Off the record at 3:38 p.m.)

16 (On the record at 3:51 p.m.)

17 THE COURT: All right. Are we ready to proceed?

18 MR. FOX: The government is, Your Honor.

19 MR. STEWARD: The defense is as well, Your Honor.

20 THE COURT: All right. I'm going to ask the clerk
21 to bring the jury in.

22 (The jury entered the courtroom.)

23 THE COURT: Please be seated. I think we're missing
24 one alternate.

25 THE DEPUTY CLERK: Please be seated.

1 THE COURT: Ladies and gentlemen, you are now the
2 jury in this case, and I want to take a few minutes to tell you
3 something about your duties as jurors and to give you some
4 instructions. These are preliminary instructions. At the end
5 of the trial, I will give you more detailed instructions.
6 Those instructions will control your deliberations. You should
7 not take anything I may say or do during the trial as
8 indicating what I think of the evidence or what your verdict
9 should be.

10 This is a criminal case brought by the United States
11 government. The government charges the defendant with
12 conspiring to obstruct justice and endeavoring to obstruct
13 justice. The charges against the defendant are contained in
14 the indictment. The indictment is simply the description of
15 the charges made by the government against the defendant. It
16 is not evidence of anything. The defendant has pleaded not
17 guilty to the charges and is presumed innocent unless and until
18 the government proves the defendant guilty beyond a reasonable
19 doubt.

20 In addition, the defendant has the right to remain silent
21 and never has to prove innocence or to present any evidence.
22 In order to help you follow the evidence, I will now give you a
23 brief summary of the elements of the crime which the government
24 must prove beyond a reasonable doubt to make its case.

25 In order for the defendant to be found guilty of

1 conspiring to obstruct justice, the government must prove each
2 of the following elements beyond a reasonable doubt: First,
3 beginning on or about August 18th, 2011 and continuing through
4 on or about December 20th, 2011, there was an agreement between
5 two or more persons to commit the crime of obstruction of
6 justice; second, the defendant became a member of the
7 conspiracy knowing its object and intending to help accomplish
8 it; and third, one of the members of the conspiracy performed
9 at least one overt act for the purpose of carrying out the
10 conspiracy, with all of you agreeing on a particular overt act
11 that you find was committed.

12 A conspiracy is a kind of criminal partnership, an
13 agreement of two or more persons to commit one or more crimes.
14 The crime of conspiracy is the agreement to do something
15 unlawful. It does not matter whether the crime agreed upon was
16 committed. For a conspiracy to have existed, it is not
17 necessary that the coconspirators made a formal agreement or
18 that they agree on every detail of the conspiracy. It is not
19 enough, however, that they simply met, discussed matters of
20 common interest, acted in similar ways or perhaps helped one
21 another. You must find that there was a plan to commit the
22 crime of obstruction of justice.

23 One becomes a member of a conspiracy by willfully
24 participating in the unlawful plan with the intent to advance
25 or further some object or purpose of the conspiracy even though

1 the person does not have full knowledge of all the details of
2 the conspiracy. Furthermore, one who willfully joins an
3 existing conspiracy is as responsible for it as the
4 originators. On the other hand, one who has no knowledge of a
5 conspiracy but happens to act in a way which furthers the
6 purpose of the conspiracy does not thereby become a member of
7 the conspiracy. Similarly, a person does not become a
8 conspirator merely by associating with one or more persons who
9 are conspirators nor merely by knowing that a conspiracy
10 exists.

11 An overt act does not itself have to be unlawful. A
12 lawful act may be an element of conspiracy if it was done for
13 the purpose of carrying out the conspiracy. The government is
14 not required to prove that the defendant personally did one of
15 the overt acts.

16 In order for the defendant to be found guilty of
17 obstruction of justice, the government must prove each of the
18 following elements beyond a reasonable doubt: First, the
19 defendant influenced, obstructed or impeded or tried to
20 influence, obstruct or impede a federal grand jury
21 investigation; and second, the defendant acted corruptly with
22 knowledge of a pending federal grand jury investigation.

23 Corruptly means that the act must be done with the purpose
24 of obstructing justice. The government does not need to prove
25 the defendant's conduct had the actual effect of obstruction.

1 However, the government must prove that the defendant's actions
2 would have had the natural and probable effect of interfering
3 with a grand jury investigation.

4 These instructions are preliminary, and the instructions I
5 will give you at the end of the case will control. The
6 evidence you are to consider in deciding what the facts are
7 consists of the sworn testimony of any witness, the exhibits
8 which are to be received into evidence and any facts to which
9 all the lawyers stipulate.

10 The following things are not evidence and you must not
11 consider them as evidence in deciding the facts of this case:
12 Statements and arguments of the attorneys, questions and
13 objections of the attorneys, testimony that I instruct you to
14 disregard and anything you may see or hear when court is not in
15 session, even if what you see or hear is done or said by one of
16 the parties or by one of the witnesses. Some evidence is
17 admitted for a limited purpose only.

18 When I instruct you that an item of evidence has been
19 admitted for a limited purpose, you must consider it only for
20 that limited purpose and for no other.

21 Evidence may be direct or circumstantial. Direct evidence
22 is direct proof of a fact such as testimony by a witness about
23 what that witness personally saw or heard or did.
24 Circumstantial evidence is indirect evidence; that is, it is
25 proof of one or more facts from which one can find another

1 fact.

2 For example, if you wake up in the morning and see that
3 the sidewalk is wet, you may find from that fact that it rained
4 during the night. However, other evidence such as a turned-on
5 garden hose may explain the water on the sidewalk. Therefore,
6 before you decide that a fact has been proved by circumstantial
7 evidence, you must consider all the evidence in light of
8 reason, experience and common sense. You are to consider both
9 circumstantial and direct evidence. The law permits you to
10 give equal weight to both, but it's for you to decide how much
11 weight to give any evidence.

12 There are Rules of Evidence which control what can be
13 received into evidence. When a lawyer asks a question or
14 offers an exhibit into evidence and a lawyer on the other side
15 thinks it is not permitted by the Rules of Evidence, that
16 lawyer may object. If I overrule the objection, the question
17 may be answered or the exhibit received. If I sustain the
18 objection, the question cannot be answered and the exhibit
19 cannot be received.

20 Whenever I sustain an objection to a question, you must
21 ignore the question and must not guess at what the answer would
22 have been. Sometimes I may order that evidence be stricken
23 from the record and that you disregard or ignore the evidence.
24 That means that when you're deciding the case, you must not
25 consider the evidence which I told you to disregard.

1 In deciding the facts of this case, you may have to decide
2 which testimony to believe and which testimony not to believe.
3 You may believe everything a witness says or part of it or none
4 of it. In considering the testimony of any witness, you may
5 take into account the opportunity and ability of the witness to
6 see or hear or know the things testified to, the witness's
7 memory, the witness's manner while testifying, the witness's
8 interest in the outcome of the case and any bias or prejudice,
9 whether other evidence contradicted the witness's testimony,
10 the reasonableness of the witness's testimony in light of all
11 the evidence and any other factors that bear on believability.

12 The weight of the evidence as to a fact does not
13 necessarily depend on the number of witnesses who testify.
14 From time to time during the trial, it may become necessary for
15 me to talk with the attorneys out of the hearing of the jury
16 either by having a conference at the bench when the jury is
17 present in the courtroom or by calling a recess.

18 Most often, those conferences will involve a determination
19 as to whether evidence is admissible under the Rules of
20 Evidence. It is appropriate to take these matters up outside
21 the presence of the jury. Should I conclude that a more
22 prolonged discussion is necessary, I may excuse you from the
23 courtroom. We will, of course, do what we can to keep the
24 number and length of these conferences to an absolute minimum.
25 I may not always grant an attorney's request for a conference.

1 Do not consider my granting or denying a request for a
2 conference as any indication of my opinion of the case or of
3 what your verdict should be.

4 I now want to say a few words about your conduct as
5 jurors. First, keep an open mind throughout the trial and do
6 not decide what the verdict should be until after you and your
7 fellow jurors have completed your deliberations at the end of
8 the case. Second, because you must decide this case based only
9 on the evidence received in the case and on my instructions as
10 to the law that applies, you must not be exposed to any other
11 information about the case or to the issues it involves during
12 the course of your jury duty.

13 Thus, until the end of the case or unless I tell you
14 otherwise, do not communicate with anyone in any way and do not
15 let anyone else communicate with you in any way about the
16 merits of the case or anything to do with it. This includes
17 discussing the case in person, in writing, by phone or
18 electronic means, via e-mail, text messaging or any Internet
19 chat room, blog, website or other feature.

20 This applies to communicating with your fellow jurors
21 until I give you the case for your deliberation, and it applies
22 to communicating with anyone else including your family
23 members, your employer, the media or press and the people
24 involved in the trial, although you may notify your family and
25 your employer that you've been seated as a juror in the case.

1 But if you're asked or approached in any way about your jury
2 service or anything about this case, you must respond that
3 you've been ordered not to discuss the matter and report that
4 contact to the court.

5 Because you will receive all of the evidence and legal
6 instructions you properly may consider to return a verdict, do
7 not read, watch or listen to any news or media accounts or
8 commentary about the case or anything to do with it. Do not do
9 any research such as consulting dictionaries, searching the
10 Internet or using other reference materials, and do not make
11 any investigation or in any other way try to learn about the
12 case on your own.

13 The law requires these restrictions to ensure the parties
14 have a fair trial based on the same evidence that each party's
15 had an opportunity to address. A juror who violates these
16 restrictions jeopardizes the fairness of the proceedings. If
17 any juror is exposed to any outside information, please notify
18 the court immediately.

19 At the end of the trial, you'll have to make your decision
20 based on what you recall of the evidence. You will not have a
21 written transcript of the trial. I urge you to pay close
22 attention to the testimony as it is given. If you wish, you
23 may take notes to help you remember what witnesses said. If
24 you do take notes, please keep them to yourself until you and
25 your fellow jurors go to the jury room to decide the case.

1 Do not let note-taking distract you so that you do not
2 hear other answers by witnesses. When you leave, your notes
3 should be left in the courtroom. Whether or not you take
4 notes, you should rely on your own memory of what was said.
5 Notes are only to assist your memory. You should not be overly
6 influenced by the notes.

7 The next phase of the trial will now begin. First, each
8 side may make an opening statement. An opening statement is
9 not evidence. It is simply an outline to help you understand
10 what that party expects the evidence will show. A party is not
11 required to make an opening statement. The government will
12 then present evidence, and counsel for the defendant may
13 cross-examine. Then the defendant may present evidence, and
14 counsel for the government may cross-examine.

15 After the evidence has been presented, the attorneys will
16 make closing arguments, and I will instruct you on the law that
17 applies to the case. After that, you will go to the jury room
18 to deliberate on your verdict.

19 All right. Does the government wish to make an opening
20 statement at this time?

21 MR. FOX: We do, Your Honor. Thank you.

22 May I proceed, Your Honor?

23 THE COURT: Yes, please.

24 ///

25 ///

PLAINTIFF'S OPENING STATEMENT

2 MR. FOX: In 2011 the defendant, Paul Tanaka, had
3 risen to become the Number 2 in the Los Angeles County
4 Sheriff's Department, the Number 2 in charge of a department
5 that is as large as any law enforcement agency in the country.
6 He was the undersheriff of the LASD, of the Sheriff's
7 Department, and he had a scandal on his hands. He learned
8 about a federal investigation; an investigation into deputy
9 abuse and deputy corruption within the Los Angeles County
10 jails; an investigation into his deputies; an investigation
11 into the culture of the Sheriff's Department that the
12 defendant, Paul Tanaka, fostered and created.

13 The defendant had a decision on his hands at that point,
14 and he decided to impede the investigation, to conceal the
15 crimes of his deputies. But instead of just concealing the
16 crimes, Mr. Tanaka committed his own. Instead of squashing the
17 scandal, Mr. Tanaka created a greater one than he ever
18 imagined. Mr. Tanaka and other members of the Sheriff's
19 Department conspired to obstruct justice.

He and his coconspirators decided to hide an inmate who was a federal informant, decided to go around and tamper with witnesses to try to force them not to cooperate with the federal investigation. Mr. Tanaka and his coconspirators decided to go out and threaten the arrest of the case agent, the FBI case agent who had been investigating the Sheriff's

1 Department to try to convince the FBI to back off of its
2 investigation.

3 As a result of his conduct, Mr. Tanaka is charged with two
4 crimes: first with conspiring to obstruct justice; and second
5 with obstruction of justice. It is our burden to prove our
6 case to you beyond a reasonable doubt, to prove that Mr. Tanaka
7 committed these crimes beyond a reasonable doubt. It's a
8 standard that we embrace and we will meet it with an
9 overwhelming amount of evidence that I will take you through
10 now.

11 But every crime has some context to it. Before I get into
12 really the heart of the case, I want to provide that context
13 because it will show that Mr. Tanaka had knowledge of what the
14 federal investigation would find out if it were to continue.
15 If his efforts to obstruct the investigation had not been
16 successful, this is what the federal government would find out.

17 Let me take you back to 2006. Mr. Tanaka was an executive
18 within the Sheriff's Department. He was, effectively, Number 3
19 within the Sheriff's Department, the assistant sheriff
20 reporting only to the undersheriff and to the Sheriff Leroy
21 Baca himself. In 2006 Mr. Tanaka was in charge, was the
22 assistant sheriff over custody within the Sheriff's Department.
23 And at that time, a captain at Men's Central Jail, one of the
24 main places you'll be hearing about in this investigation, a
25 captain brought issues to his attention.

1 A captain wrote a memo, decided that there was a problem
2 in Men's Central Jail, deputy cliques, especially on two very
3 different important floors, the 2000 and the 3000 floor.

4 Your Honor, may I have a second to --

5 THE COURT: Yes.

6 MR. FOX: Your Honor, we were having this issue
7 during the break as well. I believe it's with the Court's
8 equipment. If you want me to continue, I'll be happy to
9 continue. If we can take a two-minute break to try to solve
10 this?

11 THE COURT: That's fine.

12 MR. FOX: Thank you, Your Honor.

13 (Pause in proceedings.)

14 MR. FOX: Thank you, Your Honor. May I continue?

15 THE COURT: Yes.

16 MR. FOX: In 2006 a captain at Men's Central Jail
17 wrote a memo regarding deputies, a memo regarding deputy
18 cliques that were going on in the 2000 and 3000 floor at Men's
19 Central Jail. That's where the Sheriff's Department housed the
20 most hardened criminals, and that's where the most hardened
21 deputies were. They had formed cliques on each floor,
22 exclusive cliques keeping people out of the groups and
23 controlling those floors, backing each other no matter what was
24 happening.

25 The captain also found that there was a problem with

1 force, physical abuse that could be going on in the jail. So
2 he came up with a plan to try to stop this excessive force and
3 try to break up the deputy cliques. The captain came up with a
4 plan to rotate the deputies so they wouldn't only be working on
5 one floor. Mr. Tanaka, hearing about this plan, decided to
6 stop it, decided to do away with it. He overruled the plan,
7 said that the supervisors needed to stay off the floors where
8 the deputies were, less supervision, and let the deputies do
9 what they needed to do. And then Mr. Tanaka decided to
10 transfer the person who had brought the issue to the table,
11 transfer the captain out of Men's Central Jail, get rid of the
12 problem.

13 In 2007 Mr. Tanaka became the undersheriff -- I'm sorry,
14 the assistant sheriff of patrol. No longer working with the
15 jails, Mr. Tanaka was instead working with the patrol stations,
16 overseeing the patrol stations around Los Angeles County. And
17 very similar to 2006, in 2007 a captain at one of those
18 stations, Century Station, had a problem. He had noticed too
19 many shootings, too much force, too many citizen's complaints,
20 and a deputy clique, something called The Regulators, an
21 exclusive group of deputies at the station that were part of
22 the problem, that were leading to the excessive force.

23 Captain came up with a plan, increase supervision. He
24 would go out to all of the scenes of all the shootings to make
25 sure that things were being handled appropriately, to make sure

1 the internal investigations were being handled appropriately.
2 The captain would also increase the amount of accountability on
3 the deputies working within Century Station. He would put a
4 case, is what it's known as, put a case on deputies who were a
5 problem, who were committing misconduct, refer them to Internal
6 Affairs. Mr. Tanaka's response was he went out to Century
7 Station. He gave a speech to the deputies, to the supervisors,
8 to the captain at Century Station, and he said that if the
9 captain's putting too many cases, too many Internal Affairs
10 referrals on deputies, that Mr. Tanaka was going to put a case
11 on the captain who was doing that. Mr. Tanaka said, "I don't
12 like Internal Affairs," and Mr. Tanaka said that he was going
13 to later transfer -- he decided to later transfer that captain.

14 2010, Mr. Tanaka's still the undersheriff of patrol.
15 You'll learn that he did have influence, though, throughout the
16 Sheriff's Department. There's a commander, Bob Olmsted, you'll
17 hear from, who once again found issues going on in the jail.
18 The commander is one level above the captain in the jail. The
19 commander oversees all the jails within the county, and he
20 decided to have an audit done of the force of the internal
21 investigations happening within Men's Central Jail.

22 And this audit found that there were poor internal
23 investigations of the deputies. That's what an internal
24 investigation is of: wrongdoing of the Sheriff's Department's
25 own people, an investigation of that. There was out of control

1 force that the commander found, and he found that the captain
2 at that time, a new captain at Men's Central Jail, did not have
3 the right amount of oversight. He was on the wrong floors at
4 the wrong times, not supervising deputies, not making sure that
5 these issues didn't spin out of control.

6 So the commander went to his boss, his supervisor, who
7 said, "I can't do anything about it," went to another assistant
8 sheriff, the one over custody, who said, "I can't do anything
9 about it, but I'll put you in touch with someone who might."
10 Put him in touch with Paul Tanaka, who again was over control
11 of the time. And Commander Olmsted went to Mr. Tanaka and
12 said, "We need to transfer this captain. This captain's a
13 problem. Force is out of control. The internal investigations
14 are not being done right. We need to transfer this captain."

15 What did Mr. Tanaka do? He refused to read the memos on
16 these issues that Mr. Olmsted brought to his attention that was
17 brought to this meeting. Mr. Tanaka did say, "I will send my
18 lieutenant aide out to Men's Central Jail to figure out what
19 the problem is, to figure out if the problem truly is the
20 captain you're telling me about."

21 And the aide went to Men's Central Jail, did discover what
22 the problems were, reported back to Mr. Tanaka, and Mr. Tanaka
23 brought Commander Olmsted back into his office and said,
24 "You're right, the captain is the problem. Captain Cruz is the
25 problem, but you know what? I'm not going to transfer him, I'm

1 not going to demote him. Instead, what I'm going to do is
2 promote him. Because I, Paul Tanaka, am going to be Sheriff
3 soon, and I'll be Sheriff for the next 15 years. Dan Cruz is
4 someone I can trust and I need to surround myself with.
5 Despite these issues, I need to promote the captain because
6 he's going to be part of my command staff when I'm Sheriff."

7 In 2011 Sheriff Leroy Baca needed a new undersheriff, and
8 he decided to promote Paul Tanaka to that position. And it was
9 in 2011, August of 2011 that Paul Tanaka found out about this
10 federal investigation of the abuse and corruption going on
11 amongst the deputies in the jail, the excessive force that the
12 investigation was looking at and the corruption, bribery that
13 deputies were engaging in within the jail.

14 In order to investigate this, Mr. Tanaka found out that
15 the FBI interviewed dozens of inmates who had been reporting to
16 the FBI on similar problems, the abuse going on in Men's
17 Central Jail largely on the 2000 and 3000 floors, the bribery.
18 And the FBI also conducted an undercover operation, decided to
19 find out if what the inmates were saying about corruption was
20 true, introduced an undercover agent to one of the deputies and
21 offered a bribe to see if a deputy would bring a phone to the
22 inmate who was helping the FBI out with the investigation, the
23 inmate informant, his name's Anthony Brown.

24 The deputy took the bribe. The deputy brought the phone
25 into Men's Central Jail to Anthony Brown proving that the

1 deputy was corrupt. And the FBI had asked the inmate to use
2 that phone to report back on the civil rights abuses, the
3 physical force, excessive force that were going on in the jails
4 so the FBI would know when to come back to the jail when one of
5 these incidents had happened, who to interview so that it
6 wouldn't raise any red flags, so the Sheriff's Department would
7 not know that the FBI was conducting this investigation.

8 And by the way, let me go back one minute to the inmates.
9 You'll find out that Anthony Brown, just like a lot of these
10 inmates, was on 2000 and 3000 floor during some of this time.
11 One of the hardened criminals, Anthony Brown himself was
12 serving 400 years in prison, had a ton of criminal history, but
13 he had had enough. He knew he'd be serving the rest of his
14 life in prison, but he like other inmates had decided, We can't
15 deal with this abuse anymore. So he reported it to the FBI.

16 Mr. Tanaka in 2011, August 2011 also learned that there
17 were grand jury subpoenas flying all over the place, that the
18 federal government was conducting a grand jury investigation of
19 this matter. So Mr. Tanaka did what he had done in the past.
20 He had overruled and undermined people in the past. While he
21 couldn't overrule the FBI, he could undermine it. He could
22 obstruct the federal grand jury investigation. And Mr. Tanaka
23 did so by hiding the inmate Anthony Brown who had been working
24 as the informant, hiding him from the FBI, from the federal
25 grand jury, from the United States Marshals Service, all

1 looking for Anthony Brown.

2 Mr. Tanaka and his coconspirators would tamper with
3 witnesses, tell those witnesses, order those witnesses in some
4 cases not to speak to the federal government. And Mr. Tanaka
5 and his coconspirators would threaten the arrest, once again,
6 of the agent who was causing so much trouble by being in those
7 jails, interviewing those inmates, setting up that undercover
8 operation.

9 What I'm going to show to you now is the people that were
10 involved in this crime. There are others, but these are a lot
11 of the central people that you'll learn about. Again, at this
12 time, Paul Tanaka was reporting to Sheriff Leroy Baca. To the
13 left of your screen, you'll see OSJ. To the right of your
14 screen, you see ICIB. I'll explain ICIB in a second.

15 Let me talk about OSJ. OSJ is also known as Operation
16 Safe Jail. It's basically a special unit to do special
17 projects within the jail. Greg Thompson was the one who led
18 OSJ, and during the time of this conspiracy, the time of this
19 obstruction of justice, Greg Thompson was reporting directly to
20 Paul Tanaka. There are several layers ordinarily between a
21 lieutenant and the undersheriff, but in this instance, Greg
22 Thompson is someone that Paul Tanaka had worked with for
23 decades, would report straight to Paul Tanaka.

24 OSJ would be used to hide Anthony Brown, that inmate
25 informant. Greg Thompson would bring in his own people, people

1 he trusted in OSJ. Mickey Manzo and Gerard Smith, they would
2 be the ones that would be part of the central plan to hide
3 Anthony Brown. In addition to hiding Anthony Brown, Paul
4 Tanaka and the Sheriff's Department decided to station two
5 deputies with OSJ outside of Anthony Brown's cell, remove him
6 from a very secure area of the prison of the jail and have two
7 guards stand outside of his cell so no FBI agent, no Marshal
8 could access Anthony Brown.

9 They also brought in Deputy James Sexton, someone who knew
10 the computer systems, someone who could make Anthony Brown come
11 in and out of the system, as I'll explain in a little bit. But
12 James Sexton had a special pet name for this operation that
13 they were engaged in. He called it Operation Pandora's Box, of
14 reference to Greek mythology when the box is opened and all the
15 evils of the world spill out. Because the Sheriff's Department
16 knew, Mr. Tanaka knew, his coconspirators knew that if this got
17 out, if the federal investigation was successful, the evils
18 that were going on within Men's Central Jail would be known to
19 the world.

20 On the right-hand side, ICIB, Internal Criminal
21 Investigations Bureau. This bureau was supposed to be
22 conducting criminal investigations of its own employees.
23 Internal Affairs looks at policy violations, administrative
24 violations. ICIB was there to look at criminal violations to
25 refer deputies for prosecution.

1 The head of ICIB at this time was Captain Tom Carey,
2 William "Tom" Carey. He reported directly to Paul Tanaka.
3 Paul Tanaka had one other person within ICIB he knew he could
4 trust, another person who throughout this conspiracy was
5 reporting directly to Paul Tanaka, basically his eyes and ears
6 within ICIB, Lieutenant Steve Leavins. I mentioned before that
7 Paul Tanaka had aides that he would send out to do special
8 projects. Mr. Leavins had been Mr. Tanaka's aide, and
9 Mr. Tanaka had sent him to ICIB to become a lieutenant and be
10 his eyes and ears within ICIB.

11 Captain Carey, Lieutenant Leavins brought in two sergeants
12 to do some of the dirty work, Scott Craig and Maricela Long.
13 ICIB would help hide Anthony Brown, but they would also be the
14 ones essential to tampering with witnesses. They would be the
15 ones to go up to deputies, explain, "Federal government is
16 manipulating you. FBI's lying to you. If you have a grand
17 jury subpoena, if you get a grand jury subpoena, tell me about
18 it, and we'll do something about it. I'm a sergeant. I order
19 you, Deputy, not to speak to the FBI."

20 Those are some of the things you will hear that the
21 sergeants and Lieutenant Leavins said to some of the witnesses
22 that they feared might cooperate in the federal government;
23 some of the people who were witnesses to some of the crimes,
24 the deputies who were witness and, in some cases, committed
25 some of the crimes that the FBI was investigating.

1 Let me take you through the chronology now of August 18th
2 to September 22nd. On August 18th, Sheriff Leroy Baca received
3 a phone call from the head of the FBI in Los Angeles and told
4 Sheriff Baca, "You have our phone. We want it back. You have
5 an FBI phone in your custody that was seized at Men's Central
6 Jail." Mr. Baca called Mr. Tanaka right after that call and
7 told him, "We have a phone belonging to the FBI," and
8 Mr. Tanaka made calls to figure out what was happening.

9 Now, this phone had been seized by the Sheriff's
10 Department ten days beforehand, and they didn't really do
11 anything to investigate the case. Sat on it. It involved an
12 inmate who was serving 400 years, not a high priority even
13 though he was reporting that an employee had given him the
14 phone, a Sheriff's Department employee had given him the phone.

15 But on August 18th, after they learn this phone was
16 connected to the FBI, things changed. This became urgent. On
17 August 19th, Greg Thompson sent his two deputies, Mickey Manzo
18 and Gerard Smith, to interview Anthony Brown, to confront him
19 with the fact that they knew he was an FBI informant, that they
20 knew he was being used to investigate deputies. And Anthony
21 Brown said, "Yes, you're right. I am part of this
22 investigation. I am a federal informant, and I am helping in
23 this investigation of deputy abuse and of this bribery -- and
24 of bribery."

25 Greg Thompson, Mickey Manzo and Gerard Smith had a meeting

1 with Paul Tanaka that day to report back what they had found
2 out. Later, all of them, including Mr. Tanaka, had a meeting
3 with Sheriff Leroy Baca to report back what they had found out,
4 which confirmed what they already knew. And on the next day
5 there was a larger meeting when they brought in ICIB. This
6 you'll hear referred to as the "Saturday meeting" sometimes
7 during this trial.

8 And during this Saturday meeting, Sheriff Leroy Baca led
9 the meeting, during this meeting put Paul Tanaka in charge of
10 the operation for the Sheriff's Department. And as they went
11 through the facts, you will hear that Paul Tanaka said over and
12 over again, "F the FBI." "F the FBI," and stated over and over
13 again that this was one of the most important investigations
14 involving the Sheriff's Department in its 160-year history.

15 Paul Tanaka and Leroy Baca stepped out of the room. Paul
16 Tanaka came back in, and Mr. Tanaka said, "I've never seen the
17 Sheriff more livid in his life. We're going to do what he
18 wants. We're going to hide the inmate, keep the inmate away
19 from the FBI, and we're going to make sure the FBI stays out of
20 our jails."

21 Unfortunately for Mr. Tanaka, that didn't happen. On
22 August 23rd, agents from the FBI came to Men's Central Jail
23 unaware of this edict passed down that they couldn't meet with
24 their informant. They came to Men's Central Jail, asked for
25 him, and a deputy, unaware of the order as well, put them in

1 the same room, allowed the FBI to interview Anthony Brown.
2 When Mr. Tanaka's coconspirators found out about it, they
3 stopped, terminated the interview right away. Greg Thompson,
4 Tom Carey, Steve Leavins sent about a six-foot-six, 250-pound
5 deputy into the room. "This interview's over. This inmate's
6 not to be interviewed. Who authorized you to interview this
7 inmate?" And grabbed the inmate, took him out of the room as
8 the FBI said, "We'll come back to get you" to Anthony Brown.
9 "We'll come back to get you."

10 Then the people on your screen had the unenviable task of
11 telling Paul Tanaka what happened. They went to his office,
12 sat down and explained to him that the FBI had been given
13 access to speak to Anthony Brown. Mr. Tanaka responded, "You
14 failed me. You failed me." Once again, "F the FBI," and once
15 again, "This is one of the most important investigations
16 involving the Sheriff's Department in its 160-years' history."
17 He knew what would happen if the FBI -- if the federal
18 government was successful in its investigation.

19 Mr. Tanaka also told Greg Thompson, "Since you failed me,
20 you're the one that gets to brief the Sheriff on this." And
21 you'll hear that Greg Thompson then went to brief Sheriff Leroy
22 Baca about the fact that the FBI had been able to have access
23 to its own informant.

24 That same day, Mr. Tanaka, at the same meeting when they
25 were discussing how the FBI had access to Anthony Brown, came

1 up with a plan to hide Anthony Brown. At first, the plan was
2 to move him out of the jail where the FBI knew he was, get him
3 out of the jail. They later found out that because Anthony
4 Brown had had a heart procedure, he couldn't leave the jail at
5 that time. He needed to have doctors around. He needed to
6 have nurses around, and he needed to be near Men's Central
7 Jail.

8 They also came up with a plan at this time, however, to
9 have the two OSJ guards stand outside of Anthony Brown's cell,
10 and Mr. Brown at that time was moved from the most secure area
11 of Men's Central Jail, referred to as 1750, to the 8,000 floor
12 where they put inmates with staph infections and the like, and
13 had two OSJ guards standing outside of this floor, the 8,000
14 floor, to make sure that the FBI could not have access to him,
15 that there would not be another screw-up.

16 On August 24th, Mickey Manzo within OSJ drafted an e-mail,
17 a new policy e-mail about keeping the FBI out of the jails, one
18 that was dictated to him by Paul Tanaka at the meeting the day
19 beforehand, and this one said that Paul Tanaka had to authorize
20 any meeting between the FBI and any inmate. The FBI would not
21 be allowed to meet with an inmate unless Paul Tanaka approved
22 of it.

23 Mickey Manzo sent that e-mail to Greg Thompson. Greg
24 Thompson changed just a little bit of it and sent it on to
25 Mr. Tanaka's aide Chris Nee, who asks Mr. Thompson to call him.

1 And when Mr. Thompson called him, they made one big change to
2 the policy. Mr. Thompson wrote later about that phone call on
3 the FBI notice to facility commanders, Will Mr. Tanaka be
4 satisfied if I remove all reference to him or the executives?
5 In other words, Mr. Tanaka's name needed to be off the policy.
6 Mr. Tanaka did not want anybody else to know that he was going
7 to be the one keeping the FBI out of the jails, that that was
8 his job.

9 On August 25th, the Sheriff's Department received
10 something that they expected would be coming, something they
11 expected to be coming but they really didn't want to see. It's
12 called a federal writ, a court order, something that demanded
13 that the Sheriff's Department turn Anthony Brown over to the
14 federal government, to the U.S. Marshals Service so he could
15 testify before the grand jury investigating this case.

16 The same day, Mr. Thompson sent three people into what's
17 known as the Inmate Reception Center, basically the clerk's
18 office within Men's Central Jail where they have the computer
19 databases that have all the information about the inmates.
20 They have the physical record files that have the files of all
21 the inmates, all the history of inmates, and he sent three
22 people in his unit to the Inmate Reception Center to have
23 Mr. Brown released from the computer system.

24 Now, what did that mean? Did it mean that Mr. Brown would
25 be deleted from the computer system? No. It meant they'd

1 actually go on the computer system and have the files show he'd
2 been released, Anthony Brown had been released from sheriff's
3 custody. Initially, a woman by the name of Tara Adams, a
4 deputy within the Inmate Reception Center, said, "No, I will
5 not do this. I need a court order in order to do this." And
6 the deputies decided, because they had Paul Tanaka's backing,
7 that they would invoke his name and said, "Are you going to say
8 no to Paul Tanaka? Are you going to say no to the
9 undersheriff, Paul Tanaka?" Tara Adams initially said, "Yes, I
10 need a court order. I'm going to say no to Paul Tanaka unless
11 I get something in writing."

12 There was another clerk in the office who got a little
13 scared and decided to release Anthony Brown from the computer
14 system, decided to get rid of his digital fingerprint that
15 showed that he was in Men's Central Jail. So the deputies got
16 their way, and the deputies also took the physical records file
17 of Anthony Brown out of the Inmate Reception Center.

18 And the Inmate Reception Center, by the way, is also where
19 the writs would arrive. That's who would receive the writs by
20 fax, and they got him out of the Inmate Reception Center. That
21 original records jacket would never be seen again. At least by
22 the federal government would never be seen again. You'll learn
23 that other members of the Sheriff's Department have engaged in
24 great efforts to try to find this records jacket, the records
25 jacket where an original writ would also appear. Never been

1 found. You'll hear about that.

2 That day, the Sheriff's Department, the conspirators began
3 to change Anthony Brown's name. He was given an alias he never
4 had before and would never have since, the name of John
5 Rodriguez. As they moved him to the 8,000 floor, he became
6 John Rodriguez. They didn't fingerprint him because
7 fingerprints would link John Rodriguez to Anthony Brown. The
8 FBI would be able to see, the Marshals Service would be able to
9 see that Anthony Brown was really John Rodriguez and he was
10 still at Men's Central Jail. So they changed -- they said that
11 he refused fingerprints. They wouldn't put his social security
12 number on the form either for the very same reason. And two
13 OSJ guards continued to guard him.

14 On August 26th, the Sheriff's Department began to get
15 worried. We took care of the facts from the Marshals Service
16 with the court writ, the court order, but what if the federal
17 government shows up at Men's Central Jail with the order? What
18 if they ask for the inmate, saying, "I've got a court order for
19 Anthony Brown"?

20 Tom Carey wrote, "He's not to be released without approval
21 of the Sheriff's Department." The captain of Men's Central
22 Jail asked, "What attorney are we going to use about the
23 possible court order from the FBI?" And Greg Thompson, one of
24 the coconspirators, had a truthful statement that showed that
25 the whole intent here was to delay the production of Anthony

1 Brown to the federal grand jury. "Probably the one who is on
2 vacation for a month." You'll learn that writs were never
3 approved by attorneys, that was not part of the process. It's
4 a form, but in this case, they wanted to make sure that they
5 delayed as much as possible.

6 The same day, Anthony Brown was moved out of Men's Central
7 Jail, and John Rodriguez, his alias at the time, was
8 eliminated. He became Kevin King and booked in San Dimas
9 Station miles and miles away from Men's Central Jail. The FBI
10 couldn't come to Men's Central Jail to ask for him. The
11 Marshals Service couldn't do that either because he was no
12 longer at Men's Central Jail. You'll see the court order -- or
13 the order that changed the policy. There's a court order
14 presented by federal officers, which we do -- do not -- you'll
15 seat it in bold. You'll see it in all caps. "Do not release
16 the inmate or allow any contact between the federal government
17 and the informant."

18 On August 29th, a few days later, Sheriff Leroy Baca came
19 to this building, came to the U.S. Attorney's Office, came with
20 Undersheriff Tanaka, came with some other people and went to
21 the U.S. Attorney himself and demanded that the U.S. Attorney
22 stop working with the FBI in this investigation and only work
23 with the Sheriff's Department. They wanted control over the
24 investigation again. They wanted to control what would be
25 investigated and how hard it would be investigated. So Sheriff

1 Baca demanded to the U.S. Attorney that the FBI would be taken
2 off. This was another delay tactic because they just wanted to
3 get their arms around what was going on, circle the wagons.

4 The very next day, August 30th, Paul Tanaka went to Men's
5 Central Jail. He went there with the ICIB people: Tom Carey,
6 Steve Leavins, Maricela Long and Scott Craig. This was a rare
7 appearance at Men's Central Jail for Paul Tanaka. He was there
8 to be briefed on what was going on because they decided that
9 would be the day that they would tamper with deputies, that
10 would be the day that they would tell deputies not to
11 cooperate.

12 They talked to Gilbert Michel, the deputy who accepted the
13 bribes. They decided to talk to him. They told him, as I told
14 you before, "I'm a sergeant with the Sheriff's Department.
15 You're being manipulated by the FBI. You're being lied to by
16 the FBI. They're trying to take down the Department. They're
17 trying to use you to get information on the Department. I
18 order you not to cooperate with the federal government. I
19 order you." And you'll hear that they were briefing Paul
20 Tanaka throughout the day at Men's Central Jail.

21 On September 2nd, a few days later, Steve Leavins, the
22 lieutenant that worked for Paul Tanaka earlier, went with
23 somebody else to Paul Tanaka's office, had his office swept for
24 bugs, listening devices that might be installed by the federal
25 government in Paul Tanaka's office. They had it swept to make

1 sure there was no listening device that could be hearing the
2 conversations that were going on in Mr. Tanaka's office about
3 this crime. Also swept Leroy Baca's office for bugs. Also
4 swept the conference room that the executive used -- Mr. Tanaka
5 used to have conversations about this matter.

6 Also on September 2nd, the inmate Anthony Brown had been
7 sufficiently tampered with. You'll learn that he informed the
8 Sheriff's Department that day he didn't want to speak to the
9 FBI anymore. He thought -- and you'll see it. He thought that
10 the FBI had left him for dead. And why did he think that? The
11 Sheriff's Department coconspirators Scott Craig, Maricela Long,
12 Steve Leavins had been in his ear, had told him, "The FBI
13 hasn't come back for you." They didn't want him to know about
14 the writ. They wanted him to think that the FBI had left him
15 for dead, and he thought that. He said on September 2nd, "I'll
16 cooperate with you, the Sheriff's Department, but only if you
17 want me to. If you don't want me to, I don't have to say
18 anything more about deputy abuse."

19 On September 8th, the Sheriff's Department tried to find
20 another way to get its arms around the investigation. What the
21 Sheriff's Department did, ICIB, Tom Carey's group, is they went
22 out, they went to a judge that you'll hear from, a superior
23 court judge, works in the county courts. And they went to him
24 with an order, and they said, "We would like an order to force
25 the FBI to turn over all of its records on the investigation,

1 all of the records about the inmates that they're working with,
2 the undercover officers that the FBI's employing to investigate
3 the jails. We want everything related to its investigation.
4 Everything."

5 And the court told the Sheriff's Department that he
6 couldn't do that because the superior court, local court had no
7 jurisdiction over any federal agency. They cannot order the
8 federal government to turn over records. Something called the
9 Supremacy Clause. Supremacy Clause, the federal government
10 cannot be ordered by a local court to do something like that.

11 And this was brought to the Sheriff's Department's
12 attention. If they didn't know -- if the law enforcement
13 agency didn't know about the law, then they certainly did at
14 that point in time. You would think that this would cause
15 people to slow down, consider their actions, but the Sheriff's
16 Department, Paul Tanaka and the rest decided to double down
17 instead.

18 On September 13th, they began to conduct surveillance of
19 FBI agents, specifically Special Agent Leah Marx, who you've
20 heard referred to also as Leah Tanner, her new name. Conducted
21 surveillance of her to try to figure out whether she was
22 meeting with other deputies. Who was she meeting with? Could
23 we catch her in some bad act? Could we catch her doing
24 something embarrassing or, better yet, criminal? They couldn't
25 find anything. They didn't find anything on her. They had

1 planned and they did conduct surveillance of another FBI agent
2 to try to determine his lifestyle.

3 On September 25th, after finding nothing in the
4 surveillance, Mr. Tanaka began doing some research to determine
5 what is this really all about, how big could this investigation
6 be, who could be behind this investigation, this order to
7 investigate the Sheriff's Department? He sent to ICIB, to
8 Captain Carey, Steve Leavins articles; one from the Washington
9 Post that talked about how the U.S. Department of Justice was
10 boosting activity to police the police. He sent another one
11 from the L.A. Times that discussed the investigation that was
12 going on with the FBI, how the FBI, federal government was
13 looking at abuse and corruption within the L.A. County jails.
14 And Mr. Tanaka, at that point in time, wrote in an e-mail, "I
15 guess this shows where the orders are coming from, from the
16 top." He knew, he believed, he suspected that this was a
17 high-level decision to investigate the Sheriff's Department
18 based on its pattern of abuse and corruption within the jails.

19 The very next day, Paul Tanaka and the rest of his
20 coconspirators decided to go all in. September 26th, 2011,
21 they took their last and most aggressive act of obstruction to
22 try to force the FBI to back off. Sergeant Scott Craig -- and
23 you'll see him in this trial -- he went with Maricela Long, his
24 partner, out to Leah Marx's house. And he sat outside of her
25 residence with his gun showing, blazer off. Sat there, waited

1 for her to come home.

2 When she got there, he had a surprise for her. Told her
3 that she was the subject of a felony complaint. Not true, but
4 he told her that. Told her that they were there to try to talk
5 about how to arrange for her arrest. And you'll see his arms
6 shoot up, "We can do it like this in front of your neighbors,
7 in front of everyone in broad daylight, or we can talk about
8 another way of doing it."

9 When she put -- said, "You know what? You can't talk to
10 me about this. I need to put you in touch with the assistant
11 director in charge of the FBI, the head of Los Angeles's
12 office, Steve Martinez. You need to get in touch with him."
13 Scott Craig, the sergeant, said, "He needs to get in touch with
14 me. It's that important. He needs to get in touch with me."

15 About an hour later, Special Agent Marx's supervisor
16 called Maricela Long -- you'll hear this call -- and he told
17 her -- he told her, "I heard from my agent that you threatened
18 her arrest. I hear she's going to be arrested." Maricela Long
19 said, "She's going to be." Her supervisor, Carlos Narro, said,
20 "Does the Sheriff know about this?" Maricela Long said, "Yes,
21 the Sheriff knows about this, sir." He then said, "Well, who
22 can I speak with about the charges? What are the charges going
23 to be?" And Carlos Narro was told by Maricela Long, "You're
24 going to have to talk to the undersheriff. That's Paul Tanaka.
25 He knows what the charges are going to be." Special Agent

1 Narro asked, "How do I get in touch with Paul Tanaka?"

2 Maricela Long and Scott Craig then said the phone number for
3 Sheriff's Headquarters so they could call Paul Tanaka.

4 You'll also learn that Paul Tanaka over these years has
5 admitted as much of his conduct under oath. He's admitted that
6 he knew on August 18th that that phone that they found belonged
7 to the FBI, that the Sheriff had received a call from the head
8 of the FBI in Los Angeles saying, "You have our phone, and we
9 want it back."

10 You'll hear also that Paul Tanaka knew that Sheriff Leroy
11 Baca's attitude was, The FBI should not be investigating us.
12 We police our own. Paul Tanaka knew that the Sheriff did not
13 want the FBI involved in any investigation of the Sheriff's
14 Department.

15 You'll also hear that Mr. Tanaka knew that Anthony Brown,
16 the informant, that Mr. Tanaka's admitted that Anthony Brown
17 was an informant for the FBI detailing deputy abuse and
18 corruption going on in the jails.

19 You'll also learn that Paul Tanaka's admitted that he was
20 aware of the grand jury subpoenas that were being issued at the
21 time and he was aware that there was a court order or writ for
22 Anthony Brown's testimony. He was aware of the movement, he's
23 admitted, of Anthony Brown, that they were hiding Anthony
24 Brown, and you'll also hear that he admitted that despite the
25 court order, he was aware that they were conducting

1 surveillance of the FBI.

2 Our evidence will be presented to you through witnesses
3 from the Sheriff's Department, witnesses from the FBI. You'll
4 hear recordings. You'll see a bunch of e-mails and documents,
5 and they will all detail how Paul Tanaka tried to cover up the
6 crimes of his deputies and how he committed his own in the
7 process.

8 And at the conclusion of our evidence and the conclusion
9 of our case, we are going to come back up here, my co-counsel
10 and I, and we will ask you to deliver the only verdict that
11 will be consistent with that evidence, and that's a verdict of
12 guilty; that Paul Tanaka's guilty of conspiring to obstruct
13 justice and of obstruction of justice.

14 Thank you, Your Honor.

15 THE COURT: All right. Thank you.

16 Does the defense wish to give an opening statement at this
17 time?

18 MR. HAIG: Yes, Your Honor.

19

20 **DEFENDANT'S OPENING STATEMENT**

21 MR. HAIG: Good afternoon, and thank you for
22 listening to us.

23 After my opening statement, you'll then hear the evidence.
24 The evidence will consist of witnesses and exhibits. For those
25 of who who have or have not been privy to being on a trial

1 before, you'll hear, of course, evidence from the prosecution,
2 which is the government in this case, followed by evidence from
3 the defense and followed by closing argument and jury
4 instructions from Your Honor. After that, it'll be your
5 decision to decide what the facts are in this case and, from
6 those facts, whether any crime was committed and if the
7 defendant, Paul Tanaka, is guilty or not guilty of the two
8 charges that he's facing.

9 What you're not going to see back in the jury room is
10 anything involving a decision that you've got to make about
11 Paul Tanaka's management style or Paul Tanaka's personality or
12 who Paul Tanaka was as a manager or a peace officer. You'll
13 hear lots of evidence in this case from the government about
14 those things, about many, many things that happened before
15 2011, before the summer of 2011. The facts in this case and
16 what you have to decide in this case are what happened between
17 August 18th, 2011 and September 26th, 2011, and whether those
18 facts merit any kind of criminal action or criminal decision on
19 your part.

20 Now, you know and you've heard already, but you'll hear
21 evidence from the witness stand about how long Mr. Tanaka
22 served in the Sheriff's Department, how, in the times relevant
23 to this, he was the assistant sheriff and then later on the
24 undersheriff; and that he lived by a creed, a core value of the
25 Sheriff's Department, which is, as a leader in the Sheriff's

1 Department, that they commit themselves to honorably performing
2 their duties with respect for the dignity of all people,
3 integrity to do right and fight wrongs and wisdom to apply
4 common sense and fairness to all that they do.

5 That wasn't just something that was written on the back of
6 a business card or just plastered on a wall. It was something
7 that, in Paul Tanaka's view, all deputy sheriffs should
8 endeavor to do; be honest and forthright, follow the law and
9 assert yourself when necessary and back off when you're not
10 supposed to do something. That's the way Paul Tanaka wanted to
11 manage.

12 Paul Tanaka was the type of manager in the Sheriff's
13 Department that if you did your job and you showed up for work
14 on time and you left when the job was done and not a minute
15 before and you earned the money that the government was giving
16 you, along with all the other benefits, then Paul Tanaka would
17 never have a problem with you. But if you were a deputy
18 sheriff or a chief or a commander or a captain and you were
19 doing things that, in Mr. Tanaka's view, were not emblematic of
20 the creed of the Sheriff's Department, then you had to answer
21 to Mr. Tanaka.

22 His goal and his job wasn't to make friends. His goal was
23 to be a good cop, and he came to work every day, and the people
24 that supported him, the people that liked him in the Sheriff's
25 Department -- and you will hear some of those today -- or not

1 today, during the trial, of course -- they will say those exact
2 same things. They will say the things that I am saying right
3 now; that Mr. Tanaka expected excellence from himself and gave
4 no quarrel to the things that he would do. And he expected the
5 exact same thing from the deputy sheriffs, from the lowest
6 deputy sheriff all the way to the person right below him in
7 command, to do the things that were necessary to follow on the
8 creed.

9 Now, as I said, the first part of this case will not focus
10 on any of the things that were going on during the summer of
11 2011. What they will focus on is his job as assistant sheriff
12 and as undersheriff. And you'll hear from various sheriff
13 deputies or former sheriff deputies about some of the things
14 that they didn't like about Mr. Tanaka, whether they didn't
15 like his management style or that they didn't like some of the
16 things that he did, whether they felt that they might have been
17 overlooked for a promotion or a certain plum assignment.

18 You will understand the discretion that a manager has in
19 any organization and especially in the Sheriff's Department to
20 mold the people that run that organization in a way that he or
21 she sees fit, and that's exactly what Paul Tanaka did. Paul
22 Tanaka was not this megalomaniac. This was not the Paul Tanaka
23 Sheriff's Department. This was the Los Angeles County
24 Sheriff's Department. He was but one deputy.

25 Now, he had risen in the ranks. He didn't become

1 assistant sheriff out of nowhere. He had risen in the ranks.
2 He was trusted by the Sheriff of Los Angeles County, by Leroy
3 Baca to administer certain departments and to oversee others,
4 and he showed up to work every day doing exactly what the
5 Sheriff asked him to do, which was to make the departments
6 under his command the best that he could make them.

7 Did that mean that he didn't think that deputies should be
8 punished for evil deeds that they did or bad deeds that they
9 did while wearing the uniform? Absolutely, he thought that
10 they should be punished. He would never look the other way
11 when a deputy, whether that would be a deputy sheriff at the
12 jail or a commander or a chief or a captain, would do something
13 illegal or wrong. And if that meant pulling that person aside,
14 yelling at them, using language that you'll probably hear
15 about, that's the way it was done. Because Paul Tanaka didn't
16 think that being a nice guy was on his job description. He had
17 no problem being a nice guy, but that wasn't what he came to
18 work for. He came to work to be a good cop and a good
19 supervisor and to follow the creed.

20 After you hear many, many witnesses that talk about some
21 of the things that were going on in the Sheriff's Department in
22 their view, you'll also start hearing from some of the
23 witnesses that were involved in the issues that are germane and
24 relevant to the actual charges in this case. You'll hear that
25 there was an FBI special agent who was contacted by an inmate

1 named Anthony Brown.

2 Now, Anthony Brown, as Mr. Fox conceded, was serving a
3 very, very long state prison sentence, but he hadn't gone to
4 state prison yet. The way the system works in state court is
5 you plead guilty and get sentenced or you go to trial and get
6 sentenced. In this case, Anthony Brown went to trial. He was
7 sentenced to 423 years to life for a series of armed robberies,
8 very serious offenses.

9 Now, when somebody's sentenced to state prison out of
10 state court, there has to be some sort of communication between
11 the county jail who houses all the inmates that are either
12 awaiting going to court, that haven't posted bail or can't post
13 bail, or those that are serving local sentences and those who
14 are serving state prison sentences who haven't been sent to
15 state prison yet. Because the Los Angeles County Jail is not a
16 California state prison, but they obviously have to contact and
17 communicate with people in the state prison authority. So
18 during this time when somebody has been sentenced to state
19 prison, they stay in county jail until the prison comes back
20 and gets them.

21 Before that happened, he had contacted -- Mr. Brown had
22 contacted Special Agent Leah Marx, now Leah Tanner, and he said
23 he wants to become a confidential informant. Eventually, the
24 FBI -- and this was all unbeknownst to anybody in the Sheriff's
25 Department except for one person in the Sheriff's Department,

1 and that was a person by the name of Deputy Gilbert Michel.

2 Now, Deputy Gilbert Michel will be testifying in this
3 case. He was a deputy working in the Sheriff's Department
4 working at the county jail, and he wanted to make a little bit
5 of extra money. And the way he made some extra money was he
6 helped Anthony Brown bring a cell phone into county jail.

7 Now, how did that happen? It happened because Anthony
8 Brown contacted Deputy Michel while Deputy Michel was working
9 one of his regular shifts. They got a rapport going, and
10 eventually he said, "Hey, I'd like to get a phone, you could
11 make a little bit of money." And the deal was set up,
12 obviously not with Special Agent Marx, but with somebody else
13 who went by the name of CJ who was also an FBI agent but
14 obviously was not acting as an FBI agent who contacted Deputy
15 Michel and gave him a phone, and that phone was then smuggled
16 in by Deputy Michel into the Men's County Jail [sic].

17 Now, this cell phone was not a cell phone that was
18 regulated by the FBI, wasn't being able to be monitored by the
19 FBI in realtime. When I say "realtime," I mean actually
20 realtime. So as something's being said, it can be listened to.
21 That wasn't like this. This was a store-bought, retail Boost
22 Mobile phone that was brought into the county jail and could
23 only be monitored by logging onto a Boost Mobile proprietary
24 network where you could find out what the text messages were
25 being sent and perhaps what phone calls were being sent or

1 received for that matter. But if any photographs were being
2 taken, any video was being done, if any phone calls were being
3 made that couldn't be monitored in realtime in that anybody
4 could be actually knowing what exactly was going on.

5 So you will learn that a cell phone in county jail is not
6 a good thing to have for any inmate, and certainly not for an
7 inmate as dangerous as Anthony Brown. The cell phone in this
8 case could have been used, and the agents -- the FBI agents
9 knew this, could have been used in a way to do a lot of danger.
10 In fact, at one point in time, Anthony Brown's cellmate
11 discovered that Mr. Brown had the phone. And so Mr. Brown
12 sought permission to have this cellmate call his girlfriend, to
13 placate him so he wouldn't turn him in on the phone. And that
14 permission was granted. And that permission was granted
15 without looking into who this girlfriend was, what the charges
16 of the cellmate were, whether he was being charged with a
17 domestic violence offense or something else, and without even
18 knowing whether this cellmate called his girlfriend and asked
19 his girlfriend to do something to a witness that was on one of
20 his cases.

21 We have no idea what this phone call was, and there was
22 nothing stopping Anthony Brown from making any phone calls to
23 anybody with that phone, except for Special Agent Marx being
24 able to shut that phone off when she wanted to. But there was
25 nothing in realtime that would stop him from texting or phoning

1 anybody that he wanted to.

2 So on August 8th of 2011, Anthony Brown is being moved
3 from one location to another because he had some medical
4 problems, and he had this phone in a potato chip bag. The
5 phone was found during a routine search by deputies. They
6 seized the phone. They took the phone, and then they started
7 asking him questions about it. Now, contrary to what the
8 government just told you, this was not something that they just
9 ignored and dropped because the Sheriff's Department and the
10 people that are in charge of monitoring the safety of the jails
11 and the integrity of the jails knew that having a cell phone in
12 the jail is a big deal.

13 So they asked. They asked Anthony Brown how he got this
14 phone, and he lied to them, and he kept lying to them. He
15 never told them, "Hey, I got this phone from Deputy Michel."
16 He talked about a nurse. He talked about a bunch of people
17 smuggling this phone and helping him smuggle the phone in. The
18 Sheriff's Department had no idea that there was a corrupt
19 deputy that had smuggled that phone in. Only the FBI knew
20 that, and of course they weren't going to let the Sheriff's
21 Department know that. And that's their prerogative, that's
22 fine, and nobody here is saying that they should have spilled
23 the beans on what was going on in their investigation, and
24 that's not what this case is about anyway.

25 Special Agent Marx found out that -- right away that this

1 phone had been seized, and during that time, they had to have
2 known what the implications were of that; that there was a
3 deputy sheriff that had committed a crime, accepted a bribe and
4 smuggled in contraband, not only in violation of his oath as a
5 deputy sheriff, but in violation of the law, and that one of
6 the only persons that was a witness to this was actually
7 Anthony Brown himself. And you'll learn that the Federal
8 Bureau of Investigation, the U.S. Attorney's Office, they did
9 nothing to get that inmate out of that jail right away. They
10 had nothing at all to protect that inmate at all. As a matter
11 of fact, for those ten days between August 8th and August 18th,
12 nobody in the federal government knew, except for Special Agent
13 Marx, that that phone had actually been seized. Nobody in the
14 upper echelons of it knew. Nobody had any idea.

15 So he just sat there. No FBI agent ever visited him
16 between the time that the phone was seized until August 23rd,
17 which was five days after the FBI alerted the Sheriff's
18 Department. And even on August 23rd, which is, again, five
19 days after the head of the FBI in Los Angeles told the head of
20 the Sheriff's Department Leroy Baca, "You've got our phone,
21 we'd like our phone back," Special Agent Marx didn't even know
22 when she went to the county jail on that day that that
23 conversation had happened. She had no idea that the informant,
24 Anthony Brown's identity had been made known to the Sheriff's
25 Department in any way at all.

1 Now, was it the director of the FBI, Steven Martinez's
2 job, to do that? Might have been. Might have been somebody
3 else's job, we don't know. But we know that whatever happened
4 between the upper echelons of the FBI, the person that was
5 monitoring this informant, the person who was in charge of this
6 informant was never told what was going on with this informant,
7 and we know that the person that was in charge of this
8 informant didn't care enough to bring that informant out of the
9 county jail and out of a dangerous situation.

10 Here's what we do know, though. On August 14th or 15th,
11 Mickey Manzo -- and you saw his name on the flickering screen a
12 while ago -- Mickey Manzo asked for a court order, and it was
13 Leroy Baca, Sheriff, and it was a miscellaneous court order in
14 state court as they were investigating how Anthony Brown got
15 this phone and who he got it from. They wanted to curtail his
16 rights as an inmate, his rights to have social visits, his
17 right to make phone calls.

18 And the only way they could do that would be getting a
19 court order to explain to a judge in Los Angeles County
20 Superior Court exactly what was going on with this phone, how
21 this phone was found and how this inmate is an ongoing danger
22 to the safety and integrity of the county jail unless some of
23 these rights that he gets as an inmate get taken away, and
24 that's exactly what happened. The superior court judge signed
25 the order. Keep in mind this is three days before anybody in

1 the Sheriff's Department has any idea that this guy is
2 connected to any kind of FBI investigation at all.

3 So two days later, they start looking at this phone, the
4 Sheriff's Department starts looking at this phone, and they
5 find out that one of the numbers dialed on this phone went to
6 an office in Westwood at the federal building in the civil
7 rights division. And so that person then decided to contact
8 somebody that he knew on the federal side, and later that day
9 or the next day is finally when it got escalated all the way to
10 the top.

11 Now, it's up to you to determine why that happened, but
12 this became a low-level investigation by some deputies working
13 at the jail who continued to work on this case after August
14 18th, like Deputy Manzo for instance. This became a low-level
15 investigation to a top-level investigation. So it wasn't the
16 second in command calling the second in command. It was the
17 top man calling the top man, the assistant director of the FBI
18 in Los Angeles, the person that goes on TV, the head of the
19 whole office.

20 He called Lee Baca, and he said, "Give me my phone back."
21 Lee Baca says, "What are you talking about?" He had no idea,
22 and there's no reason he would have any idea. This was not a
23 big deal to him, and there's no reason why anybody would
24 understand or expect that a phone being found on an inmate at
25 county jail would ever rise to the level of the Sheriff, the

1 undersheriff, the assistant sheriff or any of the commanders at
2 Sheriff's Headquarters even knowing anything about this, and
3 it's clear that they didn't. I don't think those facts will
4 ever be in dispute.

5 But here's what was requested. While Lee Baca was trying
6 to figure out what was going on, his counterpart on the federal
7 side, Steven Martinez, the director of the FBI in Los Angeles,
8 said he wanted the phone back. He said the integrity and
9 identity of this informant had been compromised and that that
10 informant was to be protected. Unbeknownst -- that was on the
11 18th of August. Unbeknownst to Mr. Martinez was that, as I
12 talked about a few minutes ago, when somebody gets sentenced to
13 state prison, they go to county jail and prison comes to get
14 them.

15 Anthony Brown was due to be sent to state prison on
16 Saturday, August 20th, the same day as that Saturday meeting
17 that Mr. Fox talked to you about a few moments ago. One of the
18 lieutenants that you've heard his name already, Thompson said,
19 "I think we just let him go. Let him be the state's problem.
20 We don't need him here. We don't care." After they found out
21 the FBI was involved already, "Let him go to state prison."
22 You'll never see Mr. Tanaka's order of anything countering
23 that at all. In fact, there was only one person really that
24 cared about it, and it was Lee Baca. Because at that meeting,
25 Lee Baca said, "Take that guy off the bus. He's not going

1 anywhere."

2 And he gave two directives, two directives that Paul
3 Tanaka, when he's given statements to the FBI, when he's
4 testified -- and you'll hear some of the testimony -- when he's
5 testified on numerous occasions regarding this incident under
6 oath, that he was given two broad directives: protect the
7 inmate, as the FBI requested, and investigate the crime.

8 Now, investigating the crime means how did that deputy
9 actually get that phone into the jail. And during all the
10 discussion of this, you're not just dealing with rookie police
11 officers. You're dealing with people that have a combined
12 hundreds of years of knowledge in investigating crimes all the
13 way from the top to the bottom, and there was a consensus that
14 nobody would be that foolish to do something so dangerous as to
15 smuggle an unregulated cell phone into an inmate like Anthony
16 Brown.

17 Now, that happened. But at the time and on the ground,
18 the people in the Sheriff's Department didn't think that that
19 was something that the FBI actually would authorize. So they
20 were investigating not only Deputy Michel's role, but
21 potentially another role, a role of somebody in the FBI that
22 might have also been on the tape. Because it's not ludicrous
23 to think that just like a deputy sheriff could take a bribe,
24 somebody else could take a bribe too.

25 Now, thankfully we know that that didn't happen. We now

1 know today that the smuggling of that cell phone into the
2 county jail was an authorized investigation. We now know that
3 Agent Leah Marx, Leah Tanner, she did it, not because she was
4 trying to get some money or some drugs or do a favor to a
5 friend, she did it because she was doing an investigation and
6 she was authorized by her higher-ups to do it. We know that
7 now in 2016. In 2011 the people on the ground in the Sheriff's
8 Department, they didn't know what was going on. They didn't
9 understand what was going on.

10 So the two broad directives that were given -- protect the
11 inmate -- how does an inmate get protected? Well, not only do
12 you have to protect an informant against other people in the
13 county jail who weren't really too fond of informants -- they
14 call them snitches -- but you've also got a deputy sheriff who
15 is presumably friends with other deputy sheriffs who know that
16 the key to this person's being locked up again -- or of Michel
17 being locked up is in the words and deeds of Anthony Brown.
18 They wanted to protect him from -- Anthony Brown, that is, from
19 harm from other deputies.

20 The last thing that anybody wanted to happen, including
21 Paul Tanaka, was anything to happen to Anthony Brown. And it's
22 a very common -- and you'll hear witnesses testify about this
23 as well. It is very common that when somebody is trying to be
24 moved around or trying to be protected in county jail that
25 their names are changed and that their locations are changed.

1 Nothing uncommon about that.

2 So what happened after August 18th, and what happened
3 after August 23rd? You'll see evidence of a writ being served.
4 You'll see evidence of a grand jury investigation. After
5 August 23rd, the FBI never one time contacted anybody in the
6 Sheriff's Department -- Mr. Tanaka, nobody else -- and said,
7 "Hey, we'd like to speak to Anthony Brown, could you arrange an
8 interview?" Or, "We'd like to house him in a federal facility,
9 can you do that?" Not once did that happen.

10 Not only did not once that happen, but Lee Baca was going
11 crazy. This was consuming all of his time. It's convenient
12 that the government talks about Mr. Tanaka doing this and
13 Mr. Tanaka doing that or Mr. Tanaka in conjunction with
14 coconspirators. Mr. Tanaka worked at Sheriff's Headquarters,
15 so he knew some of the larger things that were going on, the
16 two things I told you about: protect the inmate, investigate
17 the crime. He's not an investigator. He didn't interview
18 witnesses. He didn't give broad directives to "F the FBI." He
19 never said those words.

20 You'll never get anybody in here at those meetings that's
21 going to come in and say, "I don't want the FBI in our
22 business." That might have been something that Lee Baca said
23 because Lee Baca was mighty upset, and the only time that Lee
24 Baca wasn't upset was when he was gone for two weeks. And when
25 was Lee Baca gone for two weeks? The first two weeks of

1 September, took a vacation.

2 During those two weeks, there's nothing that Paul Tanaka
3 was doing in this investigation. And why was there nothing?
4 Because it wasn't his investigation to run. The fact that he
5 may have known certain things that were going on, certain
6 high-level things -- protecting the inmate, investigating the
7 crime -- that's what he knew, and those were broad directives
8 and those were legal orders; not only legal orders from his own
9 boss that he's got to follow if they're lawful orders, but
10 actually a directive and a request from an FBI agent; not just
11 any FBI agent, but the lead FBI agent in Los Angeles to protect
12 the inmate.

13 So while Lee Baca's on vacation, Anthony Brown then gets
14 sent to state prison. During all this time, nobody goes to the
15 county jail and the FBI department and says, "We want to talk
16 to him." Nobody does. Lee Baca gets back from vacation on a
17 Friday, and by Monday everything is going crazy again. He's
18 upset about everything that's going on. He's on TV. He's
19 telling people the FBI can't break the law to enforce the law.
20 He sets up a meeting with the directors of the federal
21 prosecutor's office, and you'll hear from them as well, where
22 he basically tells them, "You can't do this." He tells
23 anybody, "Leah Marx has committed a crime, and she needs to be
24 held accountable." You will never hear Mr. Tanaka ever having
25 said that because he didn't.

1 There's no e-mail saying "Let's arrest Leah Marx."
2 There's no directive from Paul Tanaka saying "Let's go arrest
3 Leah Marx." There's no directive from Paul Tanaka saying
4 "Let's block the FBI's investigation." Because the truth is
5 this investigation wasn't a huge deal, nothing really came out
6 of it, and they weren't afraid of anybody finding out what was
7 going on. You'll hear that Mr. Tanaka didn't have a problem
8 turning over any files.

9 As a matter of fact, you'll hear that the Sheriff's
10 Department complied with writ after writ after writ on all the
11 investigations. They cooperated not only with the FBI but with
12 state court orders, with the ACLU, with other monitors. The
13 last thing Mr. Tanaka wanted was to put up a big wall so that
14 nobody could see what was going on.

15 Because Mr. Tanaka was smart enough to know that there
16 were problems going on in the jail, just like there's problems
17 in any large organization. He was also smart enough to know
18 that he wanted to cooperate and wanted to be open with the
19 people that were looking at what was going on in the jails so
20 that he could not only show his subordinates but show the
21 world, "We've got problems and we're trying to fix those
22 problems. If we've got problem deputies, we want to take care
23 of those guys." Again the creed, the creed of the Sheriff's
24 Department, to use your wisdom and use your common sense and
25 use your best judgment to be a good steward of the job that

1 you're lucky enough to have, to be a good and honest peace
2 officer whether you're a deputy sheriff or whether you're the
3 assistant sheriff, whether you're the captain or whether you're
4 the undersheriff.

5 Yes, you will hear many, many things in this trial. It'll
6 be up to you to determine whether the facts that you hear in
7 this trial, and specifically the facts that you hear regarding
8 what happened in August of 2011, amount to any criminal offense
9 committed by Paul Tanaka. And we are confident that after the
10 presentation of all the evidence in this case, that there will
11 be one verdict and one verdict only, and that will be not
12 guilty.

13 Thank you, Your Honor.

14 THE COURT: All right. Ladies and gentlemen, we're
15 going to adjourn for the day. Again, I want to remind you
16 until this trial is over, you're not to discuss this case with
17 anyone, including your fellow jurors, members of your family,
18 people involved in the trial or anyone else, and do not allow
19 others to discuss the case with you. This includes discussing
20 the case in Internet chat rooms, through blogs, bulletin
21 boards, e-mails, text messages, tweets. If anyone tries to
22 communicate with you about this case, please let me know about
23 it immediately.

24 Do not read, watch or listen to any news reports or other
25 accounts about the trial or anyone associated with it,

1 including seeing anything online. Do not do any research such
2 as consulting dictionaries, searching the Internet or using
3 other reference materials, and do not make up -- and do not
4 make any investigation about the case on your own.

5 Finally, you're reminded to keep an open mind until all of
6 the evidence has been presented, you've heard the arguments of
7 counsel, the instructions of the Court and the views of your
8 fellow jurors.

9 If you get a daily newspaper at your home, you may want to
10 have your -- any other person in your household put aside those
11 papers and save them for you because it is a case that has
12 received a certain amount of publicity. Or you may want to
13 just temporarily stop your daily newspaper until this trial is
14 over.

15 All right. Ladies and gentlemen, we're going to resume
16 tomorrow morning at eight o'clock. We'll go from eight o'clock
17 to 1:30. Again, please leave yourself plenty of time to get
18 here by eight o'clock because we can't start until all of you
19 are present.

20 All right. Thank you very much. Drive carefully. We'll
21 see you tomorrow morning.

22 (The jury exited the courtroom.)

23 THE COURT: Okay. Anything else we need to take up?

24 MR. FOX: Your Honor, I'm wondering if we can get in
25 here at 7:30. I think it's the court equipment rather than

1 ours that's the problem because it was a problem with the Elmo
2 along with our laptop. I think there's an electrical issue.
3 It seems to work when you had your technical person here, and
4 if you can have -- if your staff can have somebody here at
5 7:30, we will do our best to work on it. Is that possible?

6 THE COURT: Anything's possible, yes. You can --
7 you'll be able to gain access at 7:30. We'll attempt to reach
8 somebody in the IT department and see if they can be in early
9 tomorrow morning.

10 MR. FOX: Thank you.

11 THE COURT: The parties have an opportunity to meet
12 and confer about these exhibits?

13 MR. FOX: We have, Your Honor, and we will be filing
14 something if we haven't already -- go ahead, Liz -- I'm sorry,
15 Ms. Rhodes.

16 MS. RHODES: Yes, we did meet and confer mostly over
17 e-mail. We do have their responses, and we are trying to put
18 it into the form the Court requested in its minute order, and
19 we'll file something tonight.

20 THE COURT: All right. Okay. For whatever it's
21 worth, I believe the Ninth Circuit has spoken on whether or not
22 coconspirator statements violate the confrontation clause, and
23 I think the law is pretty clear that both the Supreme Court and
24 the Ninth Circuit have held that coconspirator statements do
25 not implicate the confrontation clause. For whatever that's

1 worth, if it's of any assistance to you, and if you need some
2 case citations, I'm more than happy to give you those.

3 All right. We'll see everybody tomorrow morning at 8:00
4 a.m.

5 MR. FOX: Do you need to know who we're calling
6 tomorrow, or do you want me to just meet with the defense and
7 let them know?

8 THE COURT: Well.

9 MR. FOX: You usually like to know, that's why I'm
10 bringing it up.

11 THE COURT: All right.

12 MR. FOX: Your Honor, we expect to call tomorrow
13 Al Gonzales, John Clark, Pat Maxwell, Steve Roller, Bob
14 Olmsted, Peter Eliasberg, Robert Bayes. That's probably
15 enough, but if we get to anybody else, we'll probably try to
16 stick Mickey Manzo in at the end.

17 THE COURT: All right.

18 MR. FOX: Thank you.

19 THE COURT: Thank you. We'll see everybody
20 tomorrow.

21 (The proceedings adjourned at 5:27 p.m.)

22

23

24

25

CERTIFICATE OF OFFICIAL REPORTER

3 COUNTY OF LOS ANGELES)
4 STATE OF CALIFORNIA)

6 I, SHAYNA MONTGOMERY, Former Federal Official
7 Realtime Court Reporter, in and for the United States District
8 Court for the Central District of California, do hereby certify
9 that pursuant to Section 753, Title 28, United States Code that
10 the foregoing is a true and correct transcript of the
11 stenographically reported proceedings held in the
12 above-entitled matter and that the transcript page format is in
13 conformance with the regulations of the judicial conference of
14 the United States.

16 | Date: August 24, 2016

19 | /s/ SHAYNA MONTGOMERY

SHAYNA MONTGOMERY, CSR, RPR, CRR
Former Federal Official Court Reporter